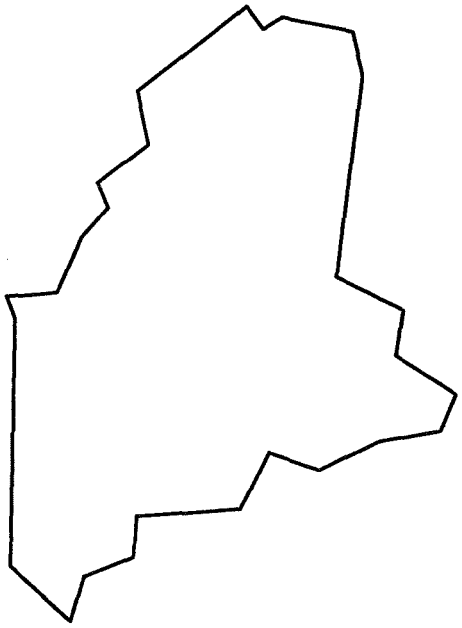
REPORT OF MAINE TASK FORCE ON INTERSTATE BANKING AND BRANCHING



NOVEMBER 30, 1995

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INTRODUCTION

During 1994, the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (Riegle-Neal) was passed by the federal Congress. This law:

- pre-empts state laws preventing interstate banking, leaving states the right to impose limited, non-discriminatory conditions upon interstate banking acquisitions;
- grants national banks the right to branch across state lines unless specifically prohibited to do so under state laws enacted prior to June 1, 1997;
- grants each state the right to opt out of interstate branching, for all banks, both state and federally chartered;
- grants each state the right to permit interstate branching prior to the national trigger date of June 1, 1997;
- grants national banks agency and other powers;
- imposes new rules on foreign banks operating in the United States:
- provides authority for states to impose certain controls over host state branches within their state;
- provides that state banking authorities may examine host state branches within their states; and
- allows state banking authorities to enter into agreements with other states respecting supervision and examination of banks operating across state lines. (See Appendix E for a copy of Riegle-Neal.)

The authorities vested in states and other conditions and limitations that are relegated to the purview of individual states as a result by virtue of Riegle-Neal, call for specific action to be taken. Recognizing that varied implications and options available to Maine with respect to the provisions of Riegle-Neal are extensive and complex, Governor Angus S. King, Jr. by Executive Order dated August 2, 1995, established the Maine Task Force on Interstate Banking and Branching. The Task Force consisted of 14 members including: the Commissioner of the Department of Professional and Financial Regulation, who served as chairperson, the Superintendent of Banking, two co-chairs of the Joint Standing Committee on Banking and Insurance, five members representing financial institutions and financial institution holding companies operating in Maine, and five members representing the business community and the general public.

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The Task Force met seven times over a three month period. The members spent initial first meetings developing guiding principles, objectives, roles, and ground rules. (Appendix B) All meetings were led by an independent facilitator.

In the following report, each issue discussed by the Task Force is identified, with the recommendation of the group, and a short discussion of the factors entering into the decision is presented, as appropriate. Generally, the Task Force utilized the workbook prepared by the Conference of State Bank Supervisors entitled "The Riegle-Neal Interstate Banking and Branching Efficiency Act: The Challenge for the States", as a guide to the issues to be addressed.

Bank taxation in an interstate environment was a topic of considerable discussion, and the Task Force formed a sub-committee to study this area. After several meetings, it was recognized that the issues surrounding bank taxation were too complex to address in this forum. While the Task Force is recommending in its report a limited remedy to the immediate problem of tax law applicability to interstate branches, it is also advocating that Maine's bank tax law be put to further study. It suggests a panel of experts, including representatives of the legal profession, accountants, and the banking industry to resolve these issues with suggested legislative action prior to the interstate branching implementation date of January 1, 1997.

While the Task Force report recommends that Maine permit interstate mergers and the operation of interstate branches, the issue of de novo establishment of an interstate branch was also topic of substantial discussion by the group. The final report contains a recommendation to permit de novo establishment of a branch, with reciprocity, effective January 1, 1997. However, one member of the Task Force has presented an alternative plan; his statement is found in Appendix F.

This report is being forwarded to Governor Angus S. King, Jr. as a recommendation of the Maine Task Force on Interstate Banking and Branching on implementation of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 established under the Governor's Executive Order #1 FY95/96. Included in Appendix A is a working draft of proposed legislation to implement the recommendations of the Task Force.

REPORT OF THE GOVERNOR'S TASK FORCE ON INTERSTATE BANKING AND BRANCHING

November 30, 1995

/s/ S. Catherine Longley
S. Catherine Longley, Chairperson
Commissioner of Department of
Professional & Financial Regulation

/s/ L. Gary Knight (with attached statement)
L. Gary Knight, President
Livermore Falls Trust Company

/s/ H. Donald DeMatteis
H. Donald DeMatteis, Superintendent
Bureau of Banking

/s/ Dewey W. Martin
Dewey W. Martin
National Federal of Independent Business

/s/ I. Joel Abromson
I. Joel Abromson, Senate Chair
Joint Standing Committee on
Banking & Insurance

/s/ Michael W. McNamara
Michael W. McNamara, President
Key Bank of Maine

/s/ Steven A. Closson
Steven A. Closson, President
Androscoggin Savings Bank

/s/ James D. Mullen
James D. Mullen, President
Webber Oil Company

/s/ Mary Anne Crawford
Mary Anne Crawford, CPA
Berry, Dunn, McNeil & Parker

/s/ William J. Ryan
William J. Ryan, President
Peoples Heritage Savings Bank

/s/ Jacqueline L. Fortunato
Jacqueline L. Fortunato, President
Maine Education Credit Union

/s/ Marc J. Vigue
Marc J. Vigue, House Chair
Joint Standing Committee on Banking & Insurance

/s/ Elaine Fuller
Elaine Fuller
American Association of Retired Persons

/s/ James B. Zimpritch
James B. Zimpritch, Esq.
Pierce, Atwood, Scribner, Allen, Smith, and Lancaster

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ISSUES AND RECOMMENDATIONS

Each of the issues presented by the Riegle-Neal Act is addressed separately, with recommendation by the Task Force and a discussion of the major factors upon which the recommendation is based as follows:

1. OPT OUT:

Issue: Should Maine "opt out" of interstate branching?

Recommendation: No.

Discussion: It is important to the Maine economy to foster a business climate that both encourages competition and attracts capital to the State. It is also important to cultivate an environment that will enable Maine's financial institutions to provide innovative, safe and sound operations that are responsive to the needs of all Maine citizens and to remain competitive both in this State and across the nation. For these reasons, Maine should permit interstate branching and "opting out" of interstate banking was not considered to be an acceptable alternative by the Task Force.

2. LET IT HAPPEN

Issue: Should Maine let the national trigger date (6/1/97) for interstate banking pass without any affirmative action on the State's part?

Recommendation: No.

Discussion: If the State of Maine chose not to pass an interstate branching law (Opt In or Opt Out) prior to 6/1/97, federal law would automatically permit nationally chartered banks to merge across state lines and form interstate branches in Maine. Conversely, state-chartered banks would be prohibited from participating in interstate mergers with resulting branching across state lines. State chartered financial institutions would be placed at a competitive disadvantage to their federal counterparts. Such disparities could also serve as a disincentive to the state charter and could adversely impact the dual banking system.

3. OPT IN

Issue: Should Maine allow its state chartered financial institutions to branch across state lines?

Recommendation: Yes, by explicit statutory authority in response to Riegle-Neal.

Discussion: State chartered financial institutions should not be put at a disadvantage with respect to federally chartered financial institutions. In addition, permitting interstate branching may encourage business growth in the State to the benefit of Maine's small business and consumers. *Section I of Draft Legislation*

4. OPT IN EARLY

Issue: Should Maine allow interstate branching prior to the June 1, 1997 date contained in Riegle-Neal? If so what should the effective date be?

Recommendation: Yes, but only on condition that the other recommendations of the Task Force are followed with respect to means of entry, concentration limits, enforcement and examination authorities discussed later in this report. The effective date should be January 1,1997.

Discussion: Concern was expressed in several areas. The public members of the Task Force supported an early opt in date as a mechanism to potentially attract other providers of financial services and as a means to encourage increased financial products/services at potentially lower costs to consumers and small businesses.

Some stock community bank representatives voiced concern that an early opt in date may not provide sufficient time to strategically plan a competitive response to interstate branching. These Task Force members advocated for restrictive measures such as limiting interstate branching to "whole bank" acquisitions and prohibiting de novo branching in Maine. However, many members recognized that such restrictive measures would limit Maine's ability to participate in interstate branching contrary to the perceived need to foster an open business climate. Consensus was reached to permit full interstate branching in Maine effective January 1, 1997. *Section 1 (§373) of Draft Legislation.*

5. OPT IN TO DE NOVO BRANCHING:

Issue: Should Maine allow an out of state financial institution to branch into this State by establishing a branch de novo?

Recommendation: Yes.

Discussion: Some members of the Task Force recognized that requiring an out-of-state financial institution to purchase an existing financial institution rather than establishing a new branch was a means to preserve the franchise value of certain stock community banks. Others recognized that this approach could have two distinct results: 1) it would send a negative message to any organization considering a financial services business in Maine; and 2) it would encourage the acquisition of stock community banks to the detriment of competition. Public members of the Task Force felt that increased competition, through de novo entry, may encourage diversity of financial services and potentially lower costs of services to consumers or increase returns to investors.

The Task Force recognized that regulations governing federal thrifts and the "30 mile rule" permitting national banks to move their headquarters across state lines, had already usurped a state's authority to limit de novo entry. Indeed, as the Task Force considered the "de novo" entry issue, Maine received notice that a federal thrift headquartered in Portland, Oregon had filed an application to establish branches in two of Maine's major cities.

The group acknowledged that the majority of the states that have passed early opt in legislation have prohibited de novo entry. However, three other New England states within close proximity to Maine have passed, or are considering, opt-in legislation permitting de novo entry with reciprocity.

The Task Force discussed whether reciprocity requirement for de novo entry could be imposed after May 31, 1997. The Task Force acknowledged that there may be federal preemption questions surrounding this issue. It was recognized, for example, that Riegle-Neal authorizes states to impose conditions on interstate merger transactions; however, such state imposed conditions are preempted after May 31, 1997.

5. OPT IN TO DE NOVO BRANCHING: (continued)

Since de novo entry is expressly permitted by Riegle-Neal and federal law does not specifically preempt state-imposed conditions for de novo entry after that date, the group decided that there was a rational basis for enforcing a reciprocity requirement for de novo entry after May 31, 1997.

Given the early movement of federally chartered thrifts and banks into interstate branching and the fact that some of our neighboring states have permitted de novo entry, with reciprocity, the Task Force recommends corresponding action. In addition, the group recommended that state law be amended to prohibit the operation of deposit production offices as a means to inhibit an out of state entrant from establishing a de novo branch for the purpose of siphoning deposit dollars from the State to support banking operations elsewhere. *Section 1 (§373) of Draft Legislation.*

6. ACQUISITION OF A BRANCH ONLY:

Issue: Should Maine allow entry by acquisition of one or more branches without acquiring the entire financial institution?

Recommendation: Yes.

Discussion: If Maine wishes to permit entry by purchase of less than an entire financial institution, Riegle-Neal requires state law to specifically permit acquisition of a branch only. In discussing this option, the Task Force heard the stock community banks' argument that permitting acquisition of a branch, and not the whole bank, could adversely affect the franchise value of those organizations.

In addition, others stipulated that permitting the selective acquisition of branches may encourage an out-of-state entrant to "cherry-pick" the affluent markets of the state without the commitment to provide services to more rural communities. However, it was recognized that this potential already exists under the federal thrift rules permitting interstate branching and recent 30-mile rulings by the Office of the Comptroller of the Currency.

6. ACQUISITION OF A BRANCH ONLY(continued)

Some of these concerns may also be addressed with the adoption of the recommended ban on Deposit Production Offices and the application of a reciprocity requirement on branch only acquisitions. Therefore, the Task Force consistent with its decision to permit de novo branching, felt that acquisition of a branch only should be permitted, with reciprocity. *Section 1 (§373) of Draft Legislation.*

7. AGE REQUIREMENTS

Issue: Should Maine require that any financial institution acquired by an out-of-state holding company have a minimum age? If so, what should that age be?

Recommendation: No minimum age requirement is necessary.

Discussion: Maine law governing interstate banking has permitted interstate acquisitions since 1975, with no age requirements in place. The Task Force has recommended that interstate mergers and de novo entry (with reciprocity) be permitted. Allowing de novo entry removes the need to establish any age requirement for interstate mergers, therefore none was recommended.

8. AGENCY POWERS

Issue: Should State law explicitly authorize state-chartered financial institutions the power to enter into agency agreements?

Recommendation: Yes.

Discussion: Riegle-Neal permits federally chartered financial institutions to act as agents for their affiliates within a financial institution holding company. This authority vested in national banks effective September 29, 1995. State-chartered financial institutions do not have comparable authority unless explicitly authorized under state law.

8. AGENCY POWERS(continued)

The Task Force recognized the competitive advantage that national banks presently have with the exercise of agency powers. It was further recognized that there may be reasons, both from a charter-enhancing perspective as well as a consumer convenience standpoint, to permit state-chartered financial institutions to act as an agent for other financial institutions. The Task Force recommends that Maine law permit state-chartered financial institutions to enter into agency arrangements, without restricting those arrangements to affiliates, and to engage in those activities authorized by statute and such other activities which may be permitted through rule-making. *Section III (§418) of Draft Legislation.*

9. DEPOSIT PRODUCTION OFFICES: STATE IMPOSED REPORTING REQUIREMENTS:

Issue: Should Maine prohibit the operation of deposit production offices and authorize the Bank Superintendent to require financial institutions to file reports with the Bureau of Banking to monitor activities of financial institution branches?

Recommendation: Yes.

Discussion: Maine law contains the so-called "net new funds" provision (Title 9-B MRSA §1013). This law was preempted as discriminatory under Riegle-Neal effective September 29, 1995. The concept of net new funds requires that funds gathered in Maine be reinvested in Maine within the parameters of acceptable banking risk. To enforce the provisions of "Net New Funds" each out-of-state acquirer of a Maine financial institution or Maine financial institution holding company was required to enter into an Interstate Acquisition Agreement with the Superintendent of Banking to assure that reports would be filed that would enable the Bureau to monitor compliance with net new funds. The Task Force recognized that federal preemption of net new funds eliminated a provision of state law that prohibited the siphoning of funds from Maine markets to support bank holding company activities in other states. The group agreed that that making sure funds are available for local lending was important, particularly in a predominately rural state like Maine.

DEPOSIT PRODUCTION OFFICES:
***STATE IMPOSED REPORTING REQUIREMENTS*(continued)**

The Task Force acknowledged that federal Community Reinvestment Act (CRA) requirements apply to all financial institutions. Indeed, Riegle-Neal amends CRA to require separate evaluations for each State in which an interstate bank has a branch; it further requires separate written evaluations of performance within multi-state metropolitan areas be prepared by federal regulators. Federal CRA primarily focuses on the lending activities of a financial institution and it does not address deposit gathering. While there was some consideration given to establishing a State CRA law, this concept was abandoned as being duplicative and unnecessarily burdensome to the financial community.

Riegle-Neal prohibits an out-of-state financial institution from using any authority to engage in interstate branching primarily for the purpose of deposit production and requires that each appropriate federal banking agency prescribe regulations to govern such activity.

The Task Force felt that an explicit state ban on deposit production offices, coupled with reporting requirements applicable to all financial institutions doing business in Maine, could provide the state with the ability to inhibit the outflow of funds.
Riegle-Neal specifically defers to state laws for enforcement of consumer protection statutes and further provides the authority for states to set notification and reporting requirements for an out of state bank branch of either state and national banks. Experts on the federal Riegle-Neal law have indicated that the law's deference to state community reinvestment, coupled with specific authority permitting states to require reports of all financial institutions, gives further weight to a state's right in this area. Other states permitting interstate branching have enacted a state ban on the operation of deposit production offices and required reports of all financial institutions operating in the state(s) to monitor deposit and loan activity . Therefore, the group concluded that Maine should enact a ban on deposit production offices. The members further recommended that the definition of "deposit production office" and enabling regulations track federal regulations in this area to avert any potential preemption problem.
Section III (§241(8)) of Draft Legislation.

10. CONCENTRATION LIMITS

Issue: Should Maine prohibit financial institutions and financial institution holding companies from acquiring a Maine financial institution or holding company if the resulting organization would control in excess of a specified amount of deposits within this state? If so, what should be the limit? Should the superintendent be given the discretion to waive the limit on a case by case basis?

Recommendation: Maine should impose upon merger transactions (both intrastate and interstate) a concentration limit of 30% of total deposits of insured financial institutions within this state. The Superintendent should be granted discretion to waive this limit on a case-by-case basis.

Discussion: The Task Force expressed concern about potential predatory practices and lack of local control over uses of deposits if any financial institution were to control an inordinate proportion of total state deposits. Therefore, it was determined that a state concentration limit should be imposed.

The group discussed the inclusion of credit union shares in the total deposit base from which to calculate the concentration limit. Currently 97 credit unions operating in Maine controlling approximately 11% of total financial institution deposits. Representatives of the banking community observed that credit unions are competing with other financial institutions for consumer deposits. Task Force members acknowledged that, If credit union shares are not included in the total base from which to calculate concentration limits, that base would shrink, and the concentration ceiling would diminish accordingly. Credit union representatives stipulated that Riegle-Neal does not apply to credit union operations nor do concentration limits established pursuant to Riegle-Neal, apply to credit unions.

The Task Force recognized that Maine credit unions control a significant (11%) proportion of total deposits and recommended that credit union shares be included in the total insured deposit base in calculating concentration limits. It was further recommended that state law should expressly preempt credit unions from the 30% concentration limitation.

10. CONCENTRATION LIMITS(continued)

Some banking representatives observed that certain Maine financial institutions are already close to the 30% deposit control ceiling and, through normal operating growth, could theoretically breach concentration limits. It was recognized that Riegle-Neal applies concentration limits only to mergers and acquisitions. Therefore, the Task Force recommended that Maine law track federal law in this regard. Finally, the group felt that the superintendent should be given the authority to waive deposit concentration limits on a case by case basis. *Section III (§241(10) of Draft Legislation.*

11. STATE ANTI-TRUST LAWS

Issue: Are Maine's anti-trust laws adequate to address situations that will be encountered in an interstate branching environment?

Recommendation: Yes.

Discussion: After a comprehensive presentation by a representative from the State Attorney General's Office it was agreed that no changes to the State's anti-trust laws are needed at this time to address interstate branching.

12. STATE LAW APPLICABILITY TO BRANCHES OF OUT-OF-STATE BANKS:

Issue: Should certain Maine statutes apply to branches of out-of-state financial institutions?

Recommendation: Yes, all out-of-state financial institutions, both state and federally chartered, should be subject to applicable state laws, to the extent that they are not preempted.

Discussion: Riegle-Neal stipulates that branches of out-of-state entities (both state and federally chartered), must comply with host state laws regarding community reinvestment, consumer protection, fair lending, and intrastate branching. Maine laws in these areas have been reviewed and are considered to be of sufficient scope to provide the necessary consumer protection in an interstate branching environment.

13. FOREIGN BANK BRANCHING:

Issue: Are Maine's laws governing foreign (alien) bank licensing and supervision adequate in the face of interstate branching?

Recommendation: This is a technical subject that is beyond the scope of the Task Force's time and resources to fully explore. The Task Force recommends that an internal study be conducted by the Bureau of Banking, in consultation with the banking industry, to fully consider the implications of foreign bank involvement in Maine and develop an appropriate regulatory response.

14. TAXATION

Issue: Should Maine bank taxation law be of sufficient scope to address interstate branching?

Recommendation: Yes.

Discussion: Presentations were made to the Task Force by several experts in the bank tax area. A subcommittee of the Task Force was formed to further explore these issues and recommend action. By consensus, the group prescribed the following guiding principals with respect to this subcommittees' recommendations:

- ensure a reasonable amount of certainty and ability to administer the tax
- guarantee fairness
- create a friendly atmosphere for banking activities
- encourage financial institutions to locate in Maine

After several meetings, this subcommittee reported that (1) Maine's tax law is not structured to apply to interstate branching; (2) there are additional constitutionality issues that plague the enforcement of the existing statute; and (3) the complexity of the problems were beyond the scope of the subcommittee's resources and time to fully address.

14. TAXATION(continued)

Several members of the Task Force voiced concern that the taxation issues should be resolved prior to the effective date of Maine's permissive legislation on interstate branching; however, the group endorsed an amendment to the tax laws, limited in scope, as a means to address taxation in an interstate branching environment. However, the Task Force recommends to the Governor that a study committee be formed to provide a more comprehensive review of the franchise tax be made and such complex issues as scope of the law and ease of administration should be addressed by that group. *Section V of Draft Legislation*

15. DEFINITIONS

Issue: Are the definitions in the Maine Banking Code concerning interstate banking and bank holding companies consistent with the provisions of Riegle-Neal?

Recommendation: Maine should review the Banking Code and other statutes related to financial institutions. Where appropriate, definitions should be amended and parallel language added to maintain consistency with Riegle-Neal and to eliminate any discriminatory effect.

Discussion: Under Riegle-Neal, new definitions were enacted for branch, home state, host state, out-of-state bank and out-of-state bank holding company. The Maine Banking Code will require amendments to reflect the new federal definitions. Riegle-Neal also eliminates the authority of states to discriminate against out-of-state institutions. If there is discriminatory language or any provisions that have the effect of discriminating against out-of-state institutions in the Maine Banking Code or other statutes, parallel language should be added to the Banking Code or other statutes to meet the federal standard of nondiscrimination. *Sections II and IV of Draft Legislation.*

16. FILING REQUIREMENTS

Issue: Should Maine require out-of-state banks that maintain branches within Maine to comply with state corporate filing requirements?

Recommendation: Yes, the Maine Banking Code should be amended to require out-of-state banks maintaining branches in the state to comply with corporate filing requirements and provide notice to the Superintendent of Banking of such filing.

Discussion: The Task Force accepted the staff recommendation that the Banking Code require compliance with the State corporate filing requirements for out-of-banks seeking to establish branches in Maine. Under Riegle-Neal, banks seeking to establish branches within a host state must comply with any nondiscriminatory filing requirements of the host state. Current law requires out-of-state corporations to comply with corporate filing requirements for authorization to conduct business in Maine. While the corporate filing requirements appear to implicitly extend to out-of-state bank branches, the Maine Banking Code does not address this issue.

Mandating corporate filing requirement explicit and including a notice provision to the Superintendent will serve as an added regulatory tool for the Bureau of Banking to monitor out-of-state bank branch activity. The Task Force did raise concern that the corporate filing requirements not be an added burden to out-of-state banks in relation to out-of-state nonbanking corporations and that the requirement not duplicate an existing statutory obligation of out-of-state bank branches. *Section I (§377) of Draft Legislation.*

17. EXAMINATION AND SUPERVISORY AUTHORITY

Issue: Should Maine expand the examination and supervisory authority of the Bureau of Banking to branches of out-of-state, state-chartered financial institutions?

Recommendation: Yes, the Maine Banking Code should be amended to provide for supervisory and examination authority over branches of out-of-state, state-chartered financial institutions to the extent permitted by law. The Banking Code should also provide for coordination of examinations, the ability to engage in joint examinations, cooperative agreements, sharing of confidential information and adequate enforcement authority over branches of out-of-state, state-chartered financial institutions and branch officers in an interstate branching environment.

Discussion: Riegle-Neal stipulates that an interstate branch of an out-of-state financial institution, state or federally chartered, is subject to State law with respect to intra-state branching, consumer protection, fair lending, and community reinvestment as if it were a branch of a host State bank. Enforcement of such state laws is relegated to the Comptroller of the Currency (for federally chartered financial institutions), and to the State Bank Regulator (for all state-chartered financial institutions). The supervisory and examination authority over out-of-state, state-chartered bank branches should be consistent with the authority to regulate in-state, state-chartered banks. Maine banking regulators should have the authority to monitor interstate branches for compliance with state consumer protection and fair lending laws and to ensure that these branches are being operated according to safe and sound banking practices. Because of the complexity of regulating in the interstate branching environment, the Task Force recognized the need for increased coordination and cooperation among state banking regulators; these issues have been included in the recommendation of the Task Force in this area. *Section III of Draft Legislation.*

18. BANK POWERS

Issue: Should Maine banks be permitted to engage in activities in states where they maintain branches to the same extent as banks located in that state? Should out-of-state banks be prevented from conducting activities in in-state branches that are not permissible under Maine law?

Recommendation: Yes, the activities of branches should be governed by the laws of the state where the branch is located.

Discussion: Under Riegle-Neal, out-of-state, state-chartered financial institutions operating branches in host states may not conduct activities that are impermissible under the laws of the host state. The Maine Banking Code does not specifically address this issue and similar language should be incorporated into the Code to provide the Bureau of Banking with effective authority to regulate the activities of out-of-state, state chartered banks operating branches in Maine. Another issue not addressed by Riegle-Neal relates to whether Maine law should allow its state-chartered banks to conduct activities in branches located in other states that would otherwise be impermissible under Maine law. Because Maine banks would be at a competitive disadvantage in other states in relation to banks chartered in those states, Maine banks should be allowed to conduct any activity in a branch that is allowed under the law of the host state. However, because the Bureau of Banking may have legitimate concerns about the safety and soundness of such activities, the group concluded that the Banking Code should require Maine banks conducting activities in branches outside Maine to provide prior written notice of such activities to the superintendent. *Section I (§376) of Draft Legislation.*

19. DEPOSIT INSURANCE:

Issue: Should out-of-state financial institutions operating in Maine be required to have federal deposit insurance?

Recommendation: Yes.

Discussion: Under existing law, the Maine Banking Code requires all state-chartered financial institutions to obtain federal deposit insurance. Because some states do not have similar statutory requirements, it is possible that an institution without federal deposit insurance may seek to establish a branch in Maine. Recognizing that federal deposit insurance is an important protection for consumers, the Task Force recommends that this requirement apply to branches of out-of-state financial institutions located in Maine. *Section III (§422) of Draft Legislation.*

20. Assessments.

Issue: Should out-of-state, state-chartered financial institutions operating branches in Maine be required to pay an assessment to the Bureau of Banking?

Recommendation: Yes.

Discussion: Maine branches of out-of-state institutions are subject to state consumer laws. The Bureau of Banking will incur costs associated with code administration and enforcement responsibilities of these laws in interstate branches; there was considerable discussion in the Task Force regarding a fair and equitable method to apportion such costs. The group voiced concern that the formula for calculating interstate branch assessments should be fair and equitable, nondiscriminatory, and adequately cover costs without being a detriment to an out-of-state, state-chartered financial institution locating to Maine. The Task Force recommends that the Banking Code be amended to authorize the Bureau to assess a fee on such interstate branches, and the fee be established through rule-making. *Section II (§214 (2)(B)) of Draft Legislation.*

APPENDIX A

EXECUTIVE ORDER

OFFICE OF
THE GOVERNOR

NO. 1FY 95/96
DATE August 2, 1995

AN ORDER ESTABLISHING THE MAINE TASK FORCE ON INTERSTATE BANKING AND BRANCHING

WHEREAS, the federal Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 authorizes nationwide interstate banking effective September 29, 1995 and preempts state laws governing interstate banking which are considered discriminatory to out-of-state financial institutions; and

WHEREAS, the federal Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 further authorizes interstate branching effective June 1, 1997 and states must decide whether to permit interstate branches and establish laws governing their activities prior to that date; and

WHEREAS, this federal law preserves the state's authority over the structure and powers of financial institutions chartered by the State of Maine; and

WHEREAS, Maine's financial institutions play a critical economic role as providers of credit and other financial services to Maine consumers and businesses, the state must preserve these sources of capital and services; and

WHEREAS, in light of these recent changes to federal banking law, it is essential that the State of Maine review its statutes governing financial institutions and financial institution holding companies to assure that competitive, responsive, safe and sound banking services are available to Maine businesses and citizens;

NOW, THEREFORE, I, Angus S. King, Jr., Governor of the State of Maine, do hereby establish the Maine Task Force on Interstate Banking and Branching:

Purpose and Charge

The Task Force will be charged with reviewing the impact of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 on Maine, reviewing other states' responses to the federal law and making recommendations to the Governor on the proposed response by Maine to the federal law, including any necessary recommendations for statutory amendments.

Membership

Members of the Task Force shall represent government, financial institutions, consumers, and businesses operating in Maine.

The Task Force shall consist of 14 members as follows:

1. The Commissioner of the Department of Professional and Financial Regulation or the Commissioner's designee (Chairperson);

2. The Superintendent of the Bureau of Banking or the Superintendent's designee;

3. Two members representing the Legislature;

4 Five members representing financial institutions and financial institution holding companies operating in Maine; and

5. Five members representing the business community and the general public.

Funding and Staff

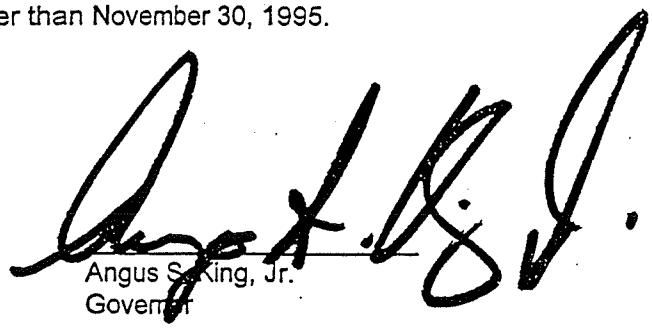
The Task Force will be supported, staffed, and funded, within existing resources, by the Bureau of Banking within the Department of Professional & Financial Regulation. The State Economist and the Commissioner of the Department of Economic and Community Development or his designee, shall also serve as a resource to the Task Force. The Attorney General and the Office of Policy and Legal Analysis shall be invited to appoint a designee to serve as a resource to the Task Force.

Meetings

The Task Force shall meet at least monthly, with the first meeting to be scheduled within one month after members have been appointed. The Task Force shall issue a report to the Governor on its findings and recommendations for legislation, if any, no later than November 30, 1995.

Effective Date

The effective date of this Order is August 2, 1995



Angus S. King, Jr.
Governor

APPENDIX B

GUIDING PRINCIPALS FOR MAINE TASK FORCE ON INTERSTATE BANKING AND BRANCHING

REPORT OF THE GOVERNOR'S TASK FORCE ON INTERSTATE BANKING AND BRANCHING

November 30, 1995

Guiding Principals for Maine Task Force on Interstate Banking & Branching

1. **Objectives.** The Task Force is charged with the responsibility to review the federal Riegle-Neal Interstate Banking and Branching Act and make recommendations to the Governor, including possible legislation, to form an appropriate state response to interstate banking and branch. Final report to the Governor is due November 30, 1995

2. **Role of Task Force Members.** The following roles and responsibilities of members was clearly identified and accepted by each:

- review all issues
- reach consensus on recommendations
- represent and build consensus with stake holders
- review and include draft legislation as appropriate

3. **Ground Rules.** The following ground rules were posted at all meetings and guided interaction of Task Force members:

- decision-making by consensus
- quorum of 8 will decide issues
- silence implies consent
- all will be heard
- respect each other's time
- no substantive decisions made if issues not on agenda

4. **Staff Support.** In addition to the Task Force members, the following agencies of State Government provided support and research to the deliberations of the group:

Bureau of Banking
Office of the Attorney General
State Planning Office
Department of Economic and Community Development
Office of Policy and Legal Analysis

APPENDIX C

INTERSTATE TASK FORCE MEMBERSHIP

REPORT OF THE GOVERNOR'S TASK FORCE ON INTERSTATE BANKING AND BRANCHING

November 30, 1995

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APPENDIX D

WORKING DRAFT OF PROPOSED LEGISLATION

REPORT OF THE GOVERNOR'S TASK FORCE
ON INTERSTATE BANKING AND BRANCHING

November 30, 1995

SECTION I - INTERSTATE TRANSACTIONS

Title 9-B MRSA Chapter 37 is enacted to read:

CHAPTER 37
INTERSTATE BRANCHING
MERGERS, CONSOLIDATIONS AND ACQUISITIONS

§371. Applicability of chapter, fees

1. **Applicability.** The provisions of this chapter shall govern de novo establishment of interstate branches, interstate combinations and interstate branch acquisitions undertaken by financial institutions organized pursuant to the laws of this State, other States or the United States

2. **Fees.** No application or notice required under to this chapter is complete unless accompanied by fee payable to the Treasurer of State to be credited and used as provided in section 214. The superintendent shall establish the amount of the fee according to the requirements of section 373, but in no instance may the fee exceed $2,500.

§372. Definitions

As used in this chapter, unless a different meaning is required by context, the following words and phrases shall have the following meanings:

A. "De novo branch". "De novo branch" means a branch of a financial institution which is originally established by the financial institution as a branch and does not become a branch of such financial institution as result of the acquisition by the financial institution of a financial institution or the acquisition of a branch of a financial institution or through the conversion, merger, or consolidation of any such institution or branch.

B. "Interstate combination". "Interstate combination" means the merger, acquisition or consolidation of financial institutions with different home states wherein the branches of the acquired financial institution become branches of the resulting financial institution.

C. "Interstate branch acquisition". "Interstate branch acquisition" means the purchase of one or more branches of a financial institution whose home state is different from the home state of the acquiring financial institution and the transfer of any branches so acquired into branches of the acquiring financial institution.

§373. Interstate combinations, branch acquisition, and de novo establishment

1. Authority

Interstate combinations are expressly authorized, subject to the provisions of this chapter. Interstate branch acquisition and establishment of de novo branches are expressly authorized, subject to the provisions of this chapter, provided, however, that the law of jurisdiction of any financial institution proposing to establish or acquire one or more branches in this State must expressly authorize, under conditions no more restrictive than those imposed by the laws of this State as determined by the superintendent, an out-of-state financial institution to engage in interstate branch acquisition or establishment of de novo branches in that state.

2. Application requirements. If the resulting financial institution of any interstate combination, interstate branch acquisition, or de novo branch establishment will be a financial institution organized under the laws of this State, that financial institution must obtain the prior approval of the superintendent before participating in such a transaction. The application for the superintendent's approval must be filed in the form and manner prescribed by the superintendent in accordance with this chapter and chapters 33 and 35, as applicable. The superintendent may approve or disapprove an application under this section in accordance with the requirements of section 252; and the superintendent may condition approval of such application, as necessary, to conform with the criteria as set forth in section 253.

3. Notice requirements. If the resulting financial institution of any interstate combination, branch acquisition, or de novo branch establishment will be a financial institution organized under to the laws of other States or the United States with a Home State that is not Maine, that financial institution must provide prior notice to the superintendent before participating in such a transaction. Notice to the superintendent must:

A. Be in a form and contain such information prescribed by the superintendent, including, but not limited to, proof of compliance with this chapter, as applicable;

B. Be provided to the superintendent no later than three days after the date of filing an application for such transaction with the appropriate state or federal regulatory agency;

C. Include a copy of any application filed with the appropriate state or federal regulatory agency; and

D. Include payment of a fee pursuant to section 371.

The superintendent shall provide written response within 30 days of receipt of the notice. If the superintendent finds that the interstate combination, acquisition or establishment does not comply with applicable Maine law, including, but not limited to, the conditions and requirements of this chapter, the superintendent may file an objection with the appropriate state or federal regulatory agency having primary responsibility for the applicant. In addition, if the superintendent find that an interstate combination, branch acquisition or de novo establishment would be adverse to the public interest, he may bring an action in the name of the State pursuant to Chapter 24.

§374. Authority for expedited transactions

Notwithstanding any other provision of law, or any charter, certificate of organization, articles of association, articles of incorporation, or bylaw of any participating institution, the superintendent may order that an interstate combination, or branch acquisition pursuant to section 373(1) become effective immediately if the superintendent determines that the action is necessary for the protection of depositors, shareholders or the public. Any person aggrieved by an interstate combination or branch acquisition pursuant to this section is entitled to judicial review of the superintendent's order in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter VII.

§375. Applicable concentration limits.

Any interstate combination or branch acquisition authorized pursuant to this Chapter is be subject to the deposit concentration limitations set forth in section 241.

§376. Activities of Interstate Branches

1. Branches of financial institutions organized under the laws of this State. Pursuant to this chapter, a financial institution organized under the laws of this State that establishes and operates a branch in another State may conduct any activity at such branch that is permissible for a financial institution organized under the laws of the Host State. The financial institution must provide prior written notice of the branch activity to the superintendent.

2. Branches of out-of-state financial institutions. The laws of this State, including, but not limited to, the laws regarding consumer protection, fair lending and establishment of intrastate branches, shall apply to any branch of an out-of-state financial institution in this State to the same extent as such laws apply to a branch of a financial institution organized under the laws of this State. An out-of-state financial institution that maintains, or seeks to establish and maintain, a branch in this State pursuant to this Chapter may not conduct any activity at such branch that is not permissible for a financial institution organized under the laws of this State.

§377. Corporate filing requirements

1. Applicability of Title 13-A. A financial institution, with a home state other than Maine, that seeks to establish and operate a branch in this State as the result of an interstate combination, branch acquisition or de novo establishment pursuant to this Chapter must comply with the filing requirements for foreign corporations of Title 13-A. The approval of the financial institution's filing by the Secretary of State shall not authorize the operation of a branch in this State by a financial institution until the notice required pursuant to section 377(2) has been filed.

2. Notice to the Superintendent Required. No financial institution is authorized to conduct the business of banking in a branch in this State pursuant to this chapter until copies of the documents filed with the Secretary of State pursuant to Title 13-A are received by the superintendent.

§378. Applicability.

The provisions of this Chapter take effect January 1, 1997.

SECTION II. - CHANGES IN DEFINITIONS

9-B MRSA §131(1) is amended as follows:

1. Agency. "Agency" means a branch office of a financial institution at which all or part of the business of the institution is conducted, but the records pertaining to such business are maintained at another office of the institution, and not at such agency office. For purposes of Section 418, "agency" means a financial institution acting as an agent on behalf of another financial institution or financial institution holding company, to the extent that the agent is engaging in only those activities permitted pursuant to Section 418 or subsequent rule-making.

9-B MRSA §131(1A) is enacted to read:

1A. Affiliate. "Affiliate" means any company that controls, is controlled by, or is under common control with another company. Control has the same meaning as in Section 1011(4).

9-B MRSA §131(2) is amended to read:

2. Authorized to do the business of banking in this State "Authorized to do the business of banking in this State" means that a financial institution or credit union is:

A. Organized under provisions of this Title;

B. Organized under provisions of prior laws of this State and subject to the provisions of this Title; ~~or~~

C. Organized under provisions of ~~federal law~~ the United States and maintains ~~its principal office in this State.~~ this State as its Home state;

D. Organized under provisions of the United States or another State and maintains a branch in this State; or

E. Organized under provisions of laws of a foreign country and maintains a branch in this State.

9-B MRSA §12-A is amended to read:

12-A. Credit union authorized to do the business of banking in this State. "Credit union authorized to do the business of banking in this State" means that a credit union:

A. Organized under provisions of this Title;

B. Organized under provisions of prior laws of this State and subject to the provisions of this Title; ~~or~~

C. Organized under provisions of ~~federal law~~ the United States and maintains ~~its principal office in this State.~~ this State as its Home state;

D. Organized under provisions of the United States or another State and maintains a branch in this State; or

E. Organized under provisions of laws of a foreign country and maintains a branch in this State.

9-B MRSA §17-A is amended to read:

17-A. Financial institution authorized to do the business of banking in this State. "Financial institution authorized to do the business of banking in this State" means a commercial bank, savings bank, industrial bank or savings and loan association:

A. Organized under provisions of this Title;

B. Organized under provisions of prior laws of this State and subject to the provisions of this Title; ~~or~~

C. Organized under provisions of ~~federal law~~ the United States and maintains ~~its principal office in this State.~~ this State as its Home state;

D. Organized under provisions of the United States or another State and maintains a branch in this State; or

E. Organized under provisions of laws of a foreign country and maintains a branch in this State.

9-B MRSA §131(3) is amended to read:

3. Branch. "Branch" means any office or facility of a financial institution where the business of ~~such financial institution~~ banking is conducted other than the institution's main office.

9-B MRSA §131(12B) is enacted to read:

12(B) Deposit Production Office. "Deposit Production Office" means a branch of a financial institution authorized to do the business of banking in Maine that is used primarily to generate deposits and does not reasonably meet the credit needs of the community(s) which the branch serves.

9-B MRSA §131 (20-A) and (20-B) are enacted to read:

20-A Home State. "Home state", with respect to a state-chartered financial institution, means the state by which the financial institution is organized under law; with respect to a federally chartered financial institution, the state in which the main office of the financial institution is deemed to be located under federal law.

20-B. Host State. "Host state", means a state, other than the Home state of a financial institution, in which the financial institution maintains, or seeks to establish and maintain a branch.

9-B MRSA §131 (29-A) and (29-B) are enacted to read:

29-A. Out-of-State. "Out-of-state" means a state other than Maine or a foreign country.

29-B Out-of-State financial institution. "Out of state financial institution" means a financial institution organized under provisions of law of a State other than Maine, or a foreign country, that maintains, or seeks to establish and maintain, a branch in this State.

SECTION III - EXAMINATION AND ENFORCEMENT CHANGES

9-B MRSA §212, sub-§4, is enacted to read:

4. Contracts with other state and federal regulatory agencies. The superintendent may employ and engage such expert, professional or other personnel of other state and federal regulatory agencies as may be necessary to assist the Bureau in carrying out its regulatory functions. Contracts for services under this subsection are designated sole source contracts and are not subject to the procurement requirements of Title 5, Chapter 155, Section 1811 et seq.

9-B MRSA §214(2)(B) is enacted to read:

2(B). Assessment of interstate branches of out-of-state financial institutions

To provide for the balance of the reasonable expenses incurred to fulfill the bureau's duty pursuant to this Title, including general regulatory costs, overhead, general office and administrative expenses, the superintendent shall have the power to assess a fee to be paid by each out-of-state financial institution that operates one or more branches in this State. The amount and timing of payment of this assessment shall be determined through rule-making.

9-B MRSA §221, is amended to read:

9B § 221. Examinations

1. Requirement. The superintendent shall examine each financial institution ~~subject to his supervision and regulation~~ organized under the laws of this State at least once every 36 months, or more frequently as he may determine. He shall have full access to the vaults, books and papers of such institution; and may make such inquiries as are necessary to ascertain the condition of such institution, its safety and soundness, and its ability to fulfill all engagements; and to ascertain whether the institution examined has complied with applicable laws. The directors, corporations, officers, employees and agents of an institution being examined shall furnish statements and full information to the superintendent or his examiners related to the condition and standing of the institution and all matters pertaining to its business affairs and management.

1A. Interstate branches. The superintendent may examine out-of-state financial institution operating branches in Maine for the purpose of determining compliance with Maine laws and to ensure that the activities of the branch(s) are conducted in a safe and sound manner. He shall have full access to the vaults, books and papers relating to the branch; and may make such inquiries as are necessary to ascertain its condition or compliance with Maine laws. The officers, employees, and agents of the out-of-state financial institution whose branch is being examined shall furnish statements and full information to the superintendent or his examiners related to the condition and standing of the out-of-state financial institution branch operating in Maine.

2. Exception. Notwithstanding the requirements set forth in subsection 1, the superintendent may accept the examination ~~report~~ reports of other state ~~of a~~ federal or foreign regulatory ~~agency~~ agencies as a method of satisfying such requirements in whole or in part.

3. Joint examinations with other state, federal, or foreign regulatory agencies. In satisfaction of the examination requirements of this section, the superintendent may conduct joint examinations of financial institutions organized under the laws of this State or branches of out-of-state financial institutions operating branches in this State with other state, federal, or foreign regulatory agencies. For purposes of this section, joint examination means an examination conducted simultaneously by two or more regulatory agencies in which one examination report is issued.

9-B MRSA §222, sub-§1, is amended to read:

1. General requirement. In addition to the reports required pursuant to this section, the superintendent shall have the power to require, from a financial institution ~~subject to his supervision and regulation~~ organized under the laws of this State and from an out-of-state financial institution authorized to do the business of banking in this State, reports and other information from such institutions at such times and in such form as he deems appropriate for the proper supervision and regulation of such institutions.

9-B MRSA §222, sub-§4, is amended to read:

4. Use of reports prepared for other state or federal regulatory agencies. The reporting requirements ~~imposed by~~ of this section may be complied with by submitting to the superintendent copies of reports prepared for other state or federal regulatory agencies by the institution which contain the information requested, unless the superintendent shall otherwise require.

9-B MRSA §224, sub-§1, is amended to read:

1. Records for superintendent. A financial institution authorized to do the business of banking in this State shall keep ~~within this State~~ such books, accounts and records relating to all transactions as will enable the superintendent to insure full compliance with the laws of this State. ~~The superintendent may authorize such records to be maintained outside of this State for good cause.~~

9-B MRSA §226, sub-§3, is amended to read:

3. Disclosure to others. The superintendent may disclose such information to the persons or entities set forth below; provided that the recipients thereof shall not disclose or make public information so communicated, except as authorized by the superintendent or pursuant to other provisions of this Title:

A. The Treasurer of State and the Commissioner of ~~Business~~ Professional and Financial Regulation;

~~B. The advisory board established pursuant to section 216;~~

~~C~~B. State departments which, in the opinion of the superintendent, require such information;

~~D~~C. Other persons, including other state, foreign, or federal regulatory officials, who, in the opinion of the superintendent, require such information to facilitate the general conduct of supervisory activities of the Bureau;

~~E~~D. A court of law or equity and then only with the written consent of the superintendent or pursuant to a special order of the court; and

~~F~~E. To comply with provisions of this Title relating to disclosure or publication of certain applications, reports, statistics and information.

9-B MRSA §226-A is enacted to read:

§226-A. Cooperative agreements.

The superintendent may enter into cooperative agreements with other state, federal, or foreign regulatory agencies to facilitate the regulatory supervision of financial institutions authorized to do the business of banking in this State, including but not limited to information sharing, coordination of examinations and joint examinations.

9-B MRSA §231, sub-§1, is amended to read:

1. Authority.

A. If, in the opinion of the superintendent, a financial institution or its subsidiary or financial institution holding company or its subsidiary subject to the provisions of this Title is engaging in or has engaged in, or he has reasonable cause to believe that the institution or company is about to engage in, any of the following:

(1) An unsafe or unsound practice in conducting the business of such financial institution or company;

(2) Violation of a law, rule or regulation relating to the supervision of such institution or company;

(3) Violation of any condition, imposed in writing, in connection with the approval of any application by the superintendent;

(4) Violation of any written agreement entered into with the superintendent; or

(5) An anticompetitive or deceptive practice, or one which is otherwise injurious to the public interest under chapter 24 or otherwise,

the superintendent shall have the power and authority to issue and serve an order upon such institution or company requiring the institution or company to cease and desist from such violation or practice.

B. Where, in the opinion of the superintendent, extraordinary circumstances make such action necessary and appropriate for the protection of depositors, shareholders or the public, the superintendent may restrict the withdrawal of funds from one or more financial institutions in the order.

C. Such order may require the officers or directors of the institution or company or subsidiary to take affirmative action to correct any violation or practice.

D. Before issuing a cease and desist order against an out-of-state financial institution operating one or more branches in Maine, the superintendent shall request that the financial institution's Home State regulatory agency undertake such an enforcement action. Where the Home State regulatory agency is unwilling or unable to issue an enforcement action, the superintendent may then exercise the enforcement authority available under this section. The superintendent may take enforcement action against a branch of a foreign financial institution without requesting enforcement action be taken first by the foreign regulatory agency. Where, in the opinion of the superintendent, emergency conditions make such enforcement action immediately necessary for the protection of depositors, shareholders or the public, the superintendent may proceed without requesting enforcement by the Home State regulatory agency.

9-B MRSA §232, first paragraph, is amended to read:

The superintendent shall have the power to remove any officer or director of a financial institution organized pursuant to this Title or any officer of a branch of an out-of-state financial institution authorized to do the business of banking in this State, in accordance with the procedures and subject to the conditions and limitations set forth in this section.

9-B MRSA §241(8) is enacted to read:

8. Deposit Production Offices prohibited. A financial institution authorized to do the business of banking in this state is prohibited from operating deposit production office(s). Each financial institution authorized to do business in this state shall submit an annual report to the Superintendent providing such deposit and loan information as deemed necessary for the Superintendent to monitor compliance with this section. If the Superintendent determines that a deposit production office is being operated, the Superintendent may issue a cease and desist order pursuant to Chapter 23. The Superintendent shall adopt regulations that set forth the factors that the Bureau shall consider in determining if a branch is being operated as a deposit production office.

9-B MRSA §241(9) is enacted to read:

9. Restrictions on the use of the words "savings", "bank", and derivatives thereof.

A. No person, unless duly authorized under the laws of this State, another State, or the United States to conduct the business of banking, may use as a part of the name or title under which the business of banking is conducted , the words "saving", "savings", "savings bank","bank", "banker", "trust", "trust company", "banking", or "trust and banking company.

B. No other person, without prior written approval of the superintendent, may use the words "saving", "savings", "savings bank", "bank", "banker", "trust", "trust company", "banking", or "trust and banking company" or any derivatives, thereof as part of the name or title under which business is conducted or as designation of such business. In determining whether to grant written permission, the superintendent shall consider whether the business to be conducted is similar to the business of banking, the potential for using the words "saving", "savings", "savings bank", "bank", "banker", "trust", "trust company", "banking", or "trust and banking company" or any derivatives, thereof which could be deceptive or otherwise injurious to public interest.

C. This section shall not apply to out-of-state-financial institutions, corporations, partnerships, etc., which in the ordinary course of their business have to file with the Secretary of State, Corporations Records Division, in processing the routine disposition of assets acquired by legitimate business dealings.

D. Any person who violates any provision of this section may be subject to a civil penalty of not more than $10,000 for each violation.

9-B MRSA §241(10) is enacted to read:

10. Deposit concentration. No financial institution authorized to do the business of banking may consolidate, merge, or acquire all, or part of, a Maine financial institution or Maine financial institution holding company if, as the result of the consolidation, acquisition, or merger, the financial institution holds or controls more than 30% of the total amount of deposits of insured financial institutions operating in Maine, except, upon consideration of the decision-making criteria found in Section 253, the superintendent may waive the 30% deposit concentration limits on a case by case basis. The amount of insured credit union shares are to be added to the amount of deposits of insured financial institutions operating in Maine only for purpose of calculating the amount of deposits a financial institution may hold or control under this section. The prohibition against a financial institution holding or controlling more than 30% of the shares and deposits of insured credit unions and financial institutions operating in Maine does not apply to credit unions authorized to do the business of banking in this state.

9-B MRSA §339-A is repealed and replaced with the following:

§339-B. Interstate branches and satellite facilities.

1. Interstate Branches. Except as provided for in Chapter 37, nothing contained in this Title may be construed as permitting a financial institution to established a branch office or facility in any state other than this State and no financial institution not authorized to do the business of banking in this State may establish or operate a branch office or facility in this State.

2. Satellite Facilities. Satellite facilities operated by financial institutions not authorized to do the business of banking in this State are prohibited according to this section. A financial institution organized pursuant to the laws of this State must provide notice to the superintendent in accordance with Chapter 33 prior to the establishment of a satellite facility. A financial institution organized pursuant to laws of other states or the

United States and authorized to do the business of banking in this State, must provide notice to the superintendent in accordance with Chapter 37 prior to the establishment of a satellite facility

9-B MRSA §418 is enacted to read:

§418. Acting as an agent

A financial institution may act as an agent for a financial institution authorized to do business in this state in accordance with this section:

A. A financial institution acting as an agent may receive deposits, renew time deposits, close loans, service loans, and receive payments on loans and other obligations. The list of permitted agency activities may be expanded through rule-making.

B. The agency agreement shall limit the activities to those specifically permitted under this section or as expanded through rule-making. The financial institution acting as an agent, pursuant to an agency agreement, shall not be considered to be a branch of the contracting financial institution, nor shall the contracting financial institution be considered a branch of the financial institution acting as an agent.

C. A financial institution entering into an agreement to act as an agent for another financial institution shall file notice with the superintendent, in the form and manner prescribed by the superintendent prior to engaging in the activities permitted under this section.

D. An agency relationship between financial institutions shall be on terms that are consistent with safe and sound banking practices and the superintendent may promulgate regulations to supplement the requirements of this section.

9-B MRSA §422, sub-§1, is amended to read:

1. Requirement. A financial institution organized under the laws of this State or a branch of an out-of-state financial institution authorized to do the business of banking in this State shall take such action as may be necessary to have its deposits or accounts insured by ~~either~~ the Federal Deposit Insurance Corporation ~~or the Federal Savings and Loan Insurance Corporation~~, or by the successors to such federal corporations. ~~The institution may have its deposits or accounts insured by whichever corporation insures the deposits or accounts of that type of institution. The superintendent may waive this requirement for a financial institution with assets of less than $500,000, if such institution demonstrates to the superintendent that it is satisfying a particular community need which cannot be sufficiently met by other financial institutions and that it has adequate security for its deposits or accounts.~~ For purposes of this section, a branch of an out-of-state financial institution does not include a branch of a foreign bank that is not eligible for insurance of accounts by the Federal Deposit Insurance Corporation.

9-B MRSA §572 Use of the word "saving" is repealed

9-B MRSA §673 Use of the word "bank" is repealed

SECTION IV - HOLDING COMPANY CHANGES

9-B MRSA §1011, sub-§2 as enacted by PL 1975 c. 500 is amended to read.

2. Maine financial institution holding company. "Maine financial institution holding company" means any company whose Home state is Maine and which has control over any financial institution authorized to do the business of banking in this State or has control over a company which controls any such financial institution. ~~; provided that if a financial institution holding company described in section 1013, subsection 2 acquires control of a financial institution authorized to do business in this State, it shall not be deemed a "Maine financial institution holding company" unless the operations of its financial institution subsidiaries are principally conducted in the State of Maine.~~

9-B MRSA §1011, sub-§7 as enacted by PL 1993 c. 302 is amended to read.

7. Non-Maine financial institution holding company. "Non-Maine financial institution holding company" means a financial institution holding company, ~~the operations of which are principally conducted outside this State~~ whose Home State is not Maine.

9-B MRSA §1011, sub-§8 as enacted by PL 1993 c. 302 is repealed.

9-B MRSA §1011(11) and (12) are enacted to read

11. Home State. "Home state", with respect to a financial institution holding company, means the State in which the total deposits of all financial institution subsidiaries of such company are the largest on the later of July 1, 1966 or the date on which the company becomes a financial institution holding company under this Title.

12. Host State. "Host state", with respect to a financial institution holding company, means a State, other than the home State of the company, in which the company controls, or seeks to control, a financial institution subsidiary.

9-B MRSA §1013, sub-§1(C) as enacted by PL 1985 c. 642 is amended to read:

§1013 Acquisition of interests in financial institutions.

C. Acquisition of more than 5% of the voting shares of a financial institution, ~~the operations of which are principally conducted outside of this State,~~ whose Home state is not Maine, by a Maine financial institution or a Maine financial institution holding company.

9-B MRSA §1013, sub-§2 as enacted by PL 1983 c. 302 is repealed:

9-B MRSA §1013, sub-§3 as amended by PL 1983 c. 597 is further amended to read:

3. Requirements for acquisition or establishment. A ~~non-Maine~~ financial institution holding company may establish, acquire or maintain control of a Maine financial institution or Maine financial institution holding company with prior approval of the superintendent, ~~when and for as long as~~ subject to the following conditions: ~~are satisfied.~~

A. The Maine financial institution or Maine financial institution holding company to be established or acquired shall enter into an agreement with the superintendent to provide reports and permit examination of its records to the extent deemed necessary by the superintendent to ensure compliance with this section and other relevant provisions of this Title and any regulations promulgated thereunder. If the financial institution to be established or acquired is federally chartered, the agreement may provide that compliance examination information shall be provided by the federal agency responsible for supervision of that financial institution. The superintendent may specify the information which requires verification, and shall be provided a report of that status of compliance by the federal agency.

B. A Maine financial institution or Maine financial institution holding company, control of which is to be acquired or held, shall have, on the date of acquisition or establishment, and shall maintain a minimum equity capital which the superintendent determines acceptable given the market area to be served and the general plan of business of the Maine financial institution or Maine financial institution holding company. ~~In no event shall such equity capital be less than $3,000,000 in the case of an establishment, or $1,000,000 in the case of an acquisition.~~ Equity capital shall be maintained consistent with sound banking practices.

9-B MRSA §1013, sub-§3(C) is enacted to read:

C. No financial institution holding company may consolidate, merge, or acquire all, or part of, a Maine financial institution or Maine financial institution holding company if, as the result of the consolidation, acquisition, or merger, the financial institution or financial institution holding company holds or controls more than 30% of the total amount of deposits of insured financial institutions operating in Maine, except upon consideration of the decision-making criteria found in Section 253, the superintendent may waive the 30% deposit concentration limits on a case by case basis. The amount of insured credit union shares are to be added to the amount of deposits of insured financial institutions operating in Maine only for purpose of calculating the amount of deposits a financial institution may hold or control under this section. The prohibition against a financial institution holding or controlling more than 30% of the shares and deposits of insured credit unions and financial institutions operating in Maine does not apply to credit unions authorized to do the business of banking in this state.

9-B MRSA §1013, sub-§4 as enacted by PL 1983 c.302 is repealed.

4. Application; ~~information on "net new funds" to be brought to Maine~~.

9-B MRSA §1015, sub-§2 as amended by PL 1983 c.302 is further amended to read:

2. Criteria for approval. Applications for approvals required in subsection 1 shall be filed pursuant to procedures established by the superintendent. Action on those applications shall be taken in accordance with the requirements of section 252 and shall be subject to the standards set forth in section 253. ~~An application filed by a non-Maine financial institution holding company for the acquisition or establishment of a Maine financial institution or Maine financial institution holding company is subject to the additional requirement that the superintendent find that the proposal would bring net new funds into the State An application by a Maine financial institution holding company to acquire or establish a out-of-state financial institution or financial institution holding company is subject to the additional requirement that the superintendent find that deposits of citizens and businesses of this State, held in the holding company subsidiaries, will continue to be invested in Maine loans and investments in a manner consistent with the company's historical performance and current economic conditions. Such a transaction is subject to the requirements of section 1013, subsection 3, paragraph A and the superintendent may~~

~~require the application to contain some or all of the information required in section 1013, subsection 4.~~

9-B MRSA §1015, sub-§3 as amended by PL 1983 c.201 is further amended to read:

3. Application fee. No application for approval required in subsection 1 may be deemed complete by the superintendent unless accompanied by an application fee ~~of $2,500, payable to the Treasurer of State,~~ to be credited and used as provided in section 214. The amount of the fee shall be established by the superintendent according to application requirements, but in no instance shall it exceed $7,500. ~~No application for approval of an acquisition or establishment of a financial institution or financial institution holding company by an out-of-state company may be deemed complete by the superintendent unless accompanied by an application fee of $5,000, payable to the Treasurer of State, to be credited and used as provided in section 214.~~

SECTION V - TAXATION CHANGES:

Title 36 §5206-B as amended in 1985 is further amended to read:

2. Maine assets. "Maine assets" means, for any taxable year for any taxable entity other than a financial institution for which Maine is not the home state, the taxable entity's total end of year assets as required to be reported pursuant to the laws of the United States on Internal Revenue Service Form 1120, Schedule L, except for tangible personal property and real property located outside this State~~.~~, loans secured by real or tangible personal property located outside this State, loans not secured by real or tangible personal property if the customer's billing address is outside this State and credit card receivables if the customer's billing address is outside this State. For any financial institution for which Maine is not the home state and that operates a branch in this State and is authorized to do the business of banking in Maine pursuant to Title 9-B MRSA section 131(17-A), "Maine assets" includes real and tangible personal property located in this State, loans secured by real or tangible personal property located in this State, loans not secured by real or tangible personal property if the customer's billing address is in this State, and credit card receivables if the customer's billing address is in this State. The term includes, in the case of a unitary business, the tangible personal property and real property located in the State of any member of the affiliated group which is not subject for the taxable year to taxation under Part 8. This property in the possession of a taxable entity at year end and located in the State is to be reported as a Maine asset by the possessor taxable entity.

4. Taxable entity. "Taxable entity" means any financial institution , including any federally chartered financial institution authorized to do business in this State, except a credit union, and any service corporation or subsidiary as defined in Title 9-B, section 131 and any financial institution holding company as defined in Title 9-B, section 1011, except that control, as defined in section 1011, shall mean ownership of more than 50% of the voting stock owned directly or indirectly, that is organized under the laws of this State or authorized to do business in this State, and any financial institution for which Maine is not the home state and that operates a branch in this State and is authorized to do the business of banking in Maine pursuant to Title 9-B MRSA section 17-A, which at any time during the taxable year realized Maine net income or had Maine assets.

APPENDIX E

RIEGLE-NEAL INTERSTATE BANKING AND BRANCHING EFFICIENCY ACT OF 1994

RIEGLE-NEAL INTERSTATE BANKING AND BRANCHING EFFICIENCY ACT OF 1994

SECTION 1. SHORT TITLE; TABLE OF CONTENTS

(a) SHORT TITLE.-This Act may be cited as the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994".

(b) TABLE OF CONTENTS.-The table of contents for this Act is as follows:

TITLE I--INTERSTATE BANKING AND BRANCHING

SEC. 101. INTERSTATE BANKING.

(a) IN GENERAL.--Section 3(d) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(d)) is amended to read as follows:

``(d) INTERSTATE BANKING.--

``(1) APPROVALS AUTHORIZED.--

``(A) ACQUISITION OF BANKS.--The Board may approve an application under this section by a bank holding company that is adequately capitalized and adequately managed to acquire control of, or acquire all or substantially all of the assets of, a bank located in a State other than the home State of such bank holding company, without regard to

whether such transaction is prohibited under the law of any State.

``(B) PRESERVATION OF STATE AGE LAWS.--

``(i) IN GENERAL.--Notwithstanding subparagraph (A), the Board may not approve an application pursuant to such subparagraph that would have the effect of permitting an out-of-State bank holding company to acquire a bank in a host State that has not been in existence for the minimum period of time, if any, specified in the statutory law of the host State.

``(ii) SPECIAL RULE FOR STATE AGE LAWS SPECIFYING A PERIOD OF MORE THAN 5 YEARS.--Notwithstanding clause (i), the Board may approve, pursuant to subparagraph (A), the acquisition of a bank that has been in existence for at least 5 years without regard to any longer minimum period of time specified in a statutory law of the host State.

``(C) SHELL BANKS.--For purposes of this subsection, a bank that has been chartered solely for the purpose of, and does not open for business prior to, acquiring control of, or acquiring all or substantially all of the assets of, an existing bank shall be deemed to have been in existence for the same period of time as the bank to be acquired.

``(D) EFFECT ON STATE CONTINGENCY LAWS.--No provision of this subsection shall be construed as affecting the applicability of a State law that makes an acquisition of a bank contingent upon a requirement to hold a portion of such bank's assets available for call by a State-sponsored housing entity established pursuant to State law, if--

``(i) the State law does not have the effect of discriminating against out-of-State banks, out-of-State bank holding companies, or subsidiaries of such banks or bank holding companies;

``(ii) that State law was in effect as of the date of enactment of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994;

``(iii) the Federal Deposit Insurance Corporation has not determined that compliance with such State law would result in an unacceptable risk to the appropriate deposit insurance fund; and

``(iv) the appropriate Federal banking agency for such bank has not found that compliance with such State law would place the bank in an unsafe or unsound condition.

``(2) CONCENTRATION LIMITS.--

``(A) NATIONWIDE CONCENTRATION LIMITS.--The Board may not approve an application pursuant to paragraph (1)(A) if the applicant

approval is based does not have the effect of discriminating against out-of-State banks, out-of-State bank holding companies, or subsidiaries of such banks or holding companies.

``(E) DEPOSIT DEFINED.--For purposes of this paragraph, the term `deposit' has the same meaning as in section 3(l) of the Federal Deposit Insurance Act.

``(3) COMMUNITY REINVESTMENT COMPLIANCE.--In determining whether to approve an application under paragraph (1)(A), the Board shall--

``(A) comply with the responsibilities of the Board regarding such application under section 804 of the Community Reinvestment Act of 1977; and

``(B) take into account the applicant's record of compliance with applicable State community reinvestment laws.

``(4) APPLICABILITY OF ANTITRUST LAWS.--No provision of this subsection shall be construed as affecting--

``(A) the applicability of the antitrust laws; or

``(B) the applicability, if any, of any State law which is similar to the antitrust laws.

``(5) EXCEPTION FOR BANKS IN DEFAULT OR IN DANGER OF DEFAULT.--The Board may approve an application pursuant to paragraph (1)(A) which involves--

``(A) an acquisition of 1 or more banks in default or in danger of default; or

``(B) an acquisition with respect to which assistance is provided under section 13(c) of the Federal Deposit Insurance Act; without regard to subparagraph (B) or (D) of paragraph (1) or paragraph (2) or (3).".

(b) STATE TAXATION AUTHORITY NOT AFFECTED.--Section 7 of the Bank Holding Company Act of 1956 (12 U.S.C. 1846) is amended--

(1) by striking ``No provision" and inserting ``(a) In General.--No provision"; and

(2) by adding at the end the following new subsection:

``(b) STATE TAXATION AUTHORITY NOT AFFECTED.--No provision of this Act shall be construed as affecting the authority of any State or political subdivision of any State to adopt, apply, or administer any tax or method of taxation to any bank, bank holding company, or foreign bank, or any affiliate of any bank, bank holding company, or foreign bank, to the extent that such tax or tax method is otherwise permissible by or under the Constitution of the United States or other Federal law.".

(c) DEFINITIONS.--Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended by adding at the end the following new subsections:

"(n) INCORPORATED DEFINITIONS.--For purposes of this Act, the terms `insured

(including all insured depository institutions which are affiliates of the applicant) controls, or upon consummation of the acquisition for which such application is filed would control, more than 10 percent of the total amount of deposits of insured depository institutions in the United States.

``(B) STATEWIDE CONCENTRATION LIMITS OTHER THAN WITH RESPECT TO INITIAL ENTRIES.--The Board may not approve an application pursuant to paragraph (1)(A) if--

``(i) immediately before the consummation of the acquisition for which such application is filed, the applicant (including any insured depository institution affiliate of the applicant) controls any insured depository institution or any branch of an insured depository institution in the home State of any bank to be acquired or in any host State in which any such bank maintains a branch; and

``(ii) the applicant (including all insured depository institutions which are affiliates of the applicant), upon consummation of the acquisition, would control 30 percent or more of the total amount of deposits of insured depository institutions in any such State.

``(C) EFFECTIVENESS OF STATE DEPOSIT CAPS.--No provision of this subsection shall be construed as affecting the authority of any State to limit, by statute, regulation, or order, the percentage of the total amount of deposits of insured depository institutions in the State which may be held or controlled by any bank or bank holding company (including all insured depository institutions which are affiliates of the bank or bank holding company) to the extent the application of such limitation does not discriminate against out-of-State banks, out-of-State bank holding companies, or subsidiaries of such banks or holding companies.

``(D) EXCEPTIONS TO SUBPARAGRAPH (B).--The Board may approve an application pursuant to paragraph (1)(A) without regard to the applicability of subparagraph (B) with respect to any State if--

``(i) there is a limitation described in subparagraph (C) in a State statute, regulation, or order which has the effect of permitting a bank or bank holding company (including all insured depository institutions which are affiliates of the bank or bank holding company) to control a greater percentage of total deposits of all insured depository institutions in the State than the percentage permitted under subparagraph (B); or

``(ii) the acquisition is approved by the appropriate State bank supervisor of such State and the standard on which such

depository institution', `appropriate Federal banking agency', `default', `in danger of default', and `State bank supervisor' have the same meanings as in section 3 of the Federal Deposit Insurance Act.

``(o) OTHER DEFINITIONS.--For purposes of this Act, the following definitions shall apply:

``(1) ADEQUATELY CAPITALIZED.--The term `adequately capitalized' means a level of capitalization which meets or exceeds all applicable Federal regulatory capital standards.

``(2) ANTITRUST LAWS.--Except as provided in section 11, the term `antitrust laws'--

"(A) has the same meaning as in subsection (a) of the first section of the Clayton Act; and

``(B) includes section 5 of the Federal Trade Commission Act to the extent that such section 5 relates to unfair methods of competition.

``(3) BRANCH.--The term `branch' means a domestic branch (as defined in section 3 of the Federal Deposit Insurance Act).

``(4) HOME STATE.--The term `home State' means--

``(A) with respect to a national bank, the State in which the main office of the bank is located;

``(B) with respect to a State bank, the State by which the bank is chartered; and

``(C) with respect to a bank holding company, the State in which the total deposits of all banking subsidiaries of such company are the largest on the later of--

``(i) July 1, 1966; or

``(ii) the date on which the company becomes a bank holding company under this Act.

``(5) HOST STATE.--The term `host State' means--

``(A) with respect to a bank, a State, other than the home State of the bank, in which the bank maintains, or seeks to establish and maintain, a branch; and

``(B) with respect to a bank holding company, a State, other than the home State of the company, in which the company controls, or seeks to control, a bank subsidiary.

``(6) OUT-OF-STATE BANK.--The term `out-of-State bank' means, with respect to any State, a bank whose home State is another State.

``(7) OUT-OF-STATE BANK HOLDING COMPANY.--The term `out-of-State bank holding company' means, with respect to any State, a bank holding company whose home State is another State.".

STATUTORY LANGUAGE

(d) SUBSIDIARY DEPOSITORY INSTITUTIONS AS AGENTS.--Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

``(r) SUBSIDIARY DEPOSITORY INSTITUTIONS AS AGENTS FOR CERTAIN AFFILIATES.--

``(1) IN GENERAL.--Any bank subsidiary of a bank holding company may receive deposits, renew time deposits, close loans, service loans, and receive payments on loans and other obligations as an agent for a depository institution affiliate.

``(2) BANK ACTING AS AGENT IS NOT A BRANCH.--Notwithstanding any other provision of law, a bank acting as an agent in accordance with paragraph (1) for a depository institution affiliate shall not be considered to be a branch of the affiliate.

``(3) PROHIBITIONS ON ACTIVITIES.--A depository institution may not--

``(A) conduct any activity as an agent under paragraph (1) or (6) which such institution is prohibited from conducting as a principal under any applicable Federal or State law; or

``(B) as a principal, have an agent conduct any activity under paragraph (1) or (6) which the institution is prohibited from conducting under any applicable Federal or State law.

``(4) EXISTING AUTHORITY NOT AFFECTED.--No provision of this subsection shall be construed as affecting--

``(A) the authority of any depository institution to act as an agent on behalf of any other depository institution under any other provision of law; or

``(B) whether a depository institution which conducts any activity as an agent on behalf of any other depository institution under any other provision of law shall be considered to be a branch of such other institution.

``(5) AGENCY RELATIONSHIP REQUIRED TO BE CONSISTENT WITH SAFE AND SOUND BANKING PRACTICES.--An agency relationship between depository institutions under paragraph (1) or (6) shall be on terms that are consistent with safe and sound banking practices and all applicable regulations of any appropriate Federal banking agency.

``(6) AFFILIATED INSURED SAVINGS ASSOCIATIONS.--An insured savings association which was an affiliate of a bank on July 1, 1994, may conduct activities as an agent on behalf of such bank in the same manner as an insured bank affiliate of such bank may act as agent for such bank under this subsection to the extent such activities are conducted only in--

``(A) any State in which--

``(i) the bank is not prohibited from operating a branch under any provision of Federal or State law; and

``(ii) the savings association maintained an office or branch and conducted business as of July 1, 1994; or

``(B) any State in which--

``(i) the bank is not expressly prohibited from operating a branch under a State law described in section 44(a)(2); and

``(ii) the savings association maintained a main office and conducted business as of July 1, 1994.".

(e) EFFECTIVE DATE.--The amendments made by this section shall take effect at the end of the 1-year period beginning on the date of the enactment of this Act.

SEC. 102. INTERSTATE BANK MERGERS.

(a) IN GENERAL.--The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

``SEC. 44. INTERSTATE BANK MERGERS.

``(a) APPROVAL OF INTERSTATE MERGER TRANSACTIONS AUTHORIZED.--

``(1) IN GENERAL.--Beginning on June 1, 1997, the responsible agency may approve a merger transaction under section 18(c) between insured banks with different home States, without regard to whether such transaction is prohibited under the law of any State.

``(2) STATE ELECTION TO PROHIBIT INTERSTATE MERGER TRANSACTIONS.--

``(A) IN GENERAL.--Notwithstanding paragraph (1), a merger transaction may not be approved pursuant to paragraph (1) if the transaction involves a bank the home State of which has enacted a law after the date of enactment of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 and before June 1, 1997, that--

``(i) applies equally to all out-of-State banks; and

``(ii) expressly prohibits merger transactions involving out-of-State banks.

``(B) NO EFFECT ON PRIOR APPROVALS OF MERGER TRANSACTIONS.--A law enacted by a State pursuant to subparagraph (A) shall have no effect on merger transactions that were approved before the effective date of such law.

``(3) STATE ELECTION TO PERMIT EARLY INTERSTATE MERGER TRANSACTIONS.--

``(A) IN GENERAL.--A merger transaction may be approved pursuant to paragraph (1) before June 1, 1997, if the home State of each bank involved in the transaction has in effect, as of the date of the approval of

such transaction, a law that--

``(i) applies equally to all out-of-State banks; and

``(ii) expressly permits interstate merger transactions with all out-of-State banks.

``(B) CERTAIN CONDITIONS ALLOWED.--A host State may impose conditions on a branch within such State of a bank resulting from an interstate merger transaction if--

``(i) the conditions do not have the effect of discriminating against out-of-State banks, out-of-State bank holding companies, or any subsidiary of such bank or company (other than on the basis of a nationwide reciprocal treatment requirement);

``(ii) the imposition of the conditions is not preempted by Federal law; and

``(iii) the conditions do not apply or require performance after May 31, 1997.

``(4) INTERSTATE MERGER TRANSACTIONS INVOLVING ACQUISITIONS OF BRANCHES.--

``(A) IN GENERAL.--An interstate merger transaction may involve the acquisition of a branch of an insured bank without the acquisition of the bank only if the law of the State in which the branch is located permits out-of-State banks to acquire a branch of a bank in such State without acquiring the bank.

``(B) TREATMENT OF BRANCH FOR PURPOSES OF THIS SECTION.--In the case of an interstate merger transaction which involves the acquisition of a branch of an insured bank without the acquisition of the bank, the branch shall be treated, for purposes of this section, as an insured bank the home State of which is the State in which the branch is located.

``(5) PRESERVATION OF STATE AGE LAWS.--

``(A) IN GENERAL.--The responsible agency may not approve an application pursuant to paragraph (1) that would have the effect of permitting an out-of-State bank or out-of-State bank holding company to acquire a bank in a host State that has not been in existence for the minimum period of time, if any, specified in the statutory law of the host State.

``(B) SPECIAL RULE FOR STATE AGE LAWS SPECIFYING A PERIOD OF MORE THAN 5 YEARS.--Notwithstanding subparagraph (A), the responsible agency may approve a merger transaction pursuant to paragraph (1) involving the acquisition of a bank that has been in existence at least 5 years without regard to any longer minimum period of time specified in a statutory law of

the host State.

``(6) SHELL BANKS.--For purposes of this subsection, a bank that has been chartered solely for the purpose of, and does not open for business prior to, acquiring control of, or acquiring all or substantially all of the assets of, an existing bank or branch shall be deemed to have been in existence for the same period of time as the bank or branch to be acquired.

``(b) PROVISIONS RELATING TO APPLICATION AND APPROVAL PROCESS.--

``(1) COMPLIANCE WITH STATE FILING REQUIREMENTS.--

``(A) IN GENERAL.--Any bank which files an application for an interstate merger transaction shall--

``(i) comply with the filing requirements of any host State of the bank which will result from such transaction to the extent that the requirement--

``(I) does not have the effect of discriminating against out-of-State banks or out-of-State bank holding companies or subsidiaries of such banks or bank holding companies; and

``(II) is similar in effect to any requirement imposed by the host State on a nonbanking corporation incorporated in another State that engages in business in the host State; and

``(ii) submit a copy of the application to the State bank supervisor of the host State.

``(B) PENALTY FOR FAILURE TO COMPLY.--The responsible agency may not approve an application for an interstate merger transaction if the applicant materially fails to comply with subparagraph (A).

``(2) CONCENTRATION LIMITS.--

``(A) NATIONWIDE CONCENTRATION LIMITS.--The responsible agency may not approve an application for an interstate merger transaction if the resulting bank (including all insured depository institutions which are affiliates of the resulting bank), upon consummation of the transaction, would control more than 10 percent of the total amount of deposits of insured depository institutions in the United States.

``(B) STATEWIDE CONCENTRATION LIMITS OTHER THAN WITH RESPECT TO INITIAL ENTRIES.--The responsible agency may not approve an application for an interstate merger transaction if--

``(i) any bank involved in the transaction (including all insured depository institutions which are affiliates of any such bank) has a branch in any State in which any other bank involved in the transaction has a branch; and

``(ii) the resulting bank (including all insured depository

institutions which would be affiliates of the resulting bank), upon consummation of the transaction, would control 30 percent or more of the total amount of deposits of insured depository institutions in any such State.

``(C) EFFECTIVENESS OF STATE DEPOSIT CAPS.--No provision of this subsection shall be construed as affecting the authority of any State to limit, by statute, regulation, or order, the percentage of the total amount of deposits of insured depository institutions in the State which may be held or controlled by any bank or bank holding company (including all insured depository institutions which are affiliates of the bank or bank holding company) to the extent the application of such limitation does not discriminate against out-of-State banks, out-of-State bank holding companies, or subsidiaries of such banks or holding companies.

``(D) EXCEPTIONS TO SUBPARAGRAPH (B).--The responsible agency may approve an application for an interstate merger transaction pursuant to subsection (a) without regard to the applicability of subparagraph (B) with respect to any State if--

``(i) there is a limitation described in subparagraph (C) in a State statute, regulation, or order which has the effect of permitting a bank or bank holding company (including all insured depository institutions which are affiliates of the bank or bank holding company) to control a greater percentage of total deposits of all insured depository institutions in the State than the percentage permitted under subparagraph (B); or

``(ii) the transaction is approved by the appropriate State bank supervisor of such State and the standard on which such approval is based does not have the effect of discriminating against out-of-State banks, out-of-State bank holding companies, or subsidiaries of such banks or holding companies.

``(E) EXCEPTION FOR CERTAIN BANKS.--This paragraph shall not apply with respect to any interstate merger transaction involving only affiliated banks.

``(3) COMMUNITY REINVESTMENT COMPLIANCE.--In determining whether to approve an application for an interstate merger transaction in which the resulting bank would have a branch or bank affiliate immediately following the transaction in any State in which the bank submitting the application (as the acquiring bank) had no branch or bank affiliate immediately before the transaction, the responsible agency shall--

``(A) comply with the responsibilities of the agency regarding such

application under section 804 of the Community Reinvestment Act of 1977;

``(B) take into account the most recent written evaluation under section 804 of the Community Reinvestment Act of 1977 of any bank which would be an affiliate of the resulting bank; and

``(C) take into account the record of compliance of any applicant bank with applicable State community reinvestment laws.

``(4) ADEQUACY OF CAPITAL AND MANAGEMENT SKILLS.--The responsible agency may approve an application for an interstate merger transaction pursuant to subsection (a) only if--

``(A) each bank involved in the transaction is adequately capitalized as of the date the application is filed; and

``(B) the responsible agency determines that the resulting bank will continue to be adequately capitalized and adequately managed upon the consummation of the transaction.

``(5) SURRENDER OF CHARTER AFTER MERGER TRANSACTION.--The charters of all banks involved in an interstate merger transaction, other than the charter of the resulting bank, shall be surrendered, upon request, to the Federal banking agency or State bank supervisor which issued the charter.

``(c) APPLICABILITY OF CERTAIN LAWS TO INTERSTATE BANKING OPERATIONS.--

``(1) STATE TAXATION AUTHORITY NOT AFFECTED.--

``(A) IN GENERAL.--No provision of this section shall be construed as affecting the authority of any State or political subdivision of any State to adopt, apply, or administer any tax or method of taxation to any bank, bank holding company, or foreign bank, or any affiliate of any bank, bank holding company, or foreign bank, to the extent such tax or tax method is otherwise permissible by or under the Constitution of the United States or other Federal law.

``(B) IMPOSITION OF SHARES TAX BY HOST STATES.--In the case of a branch of an out-of-State bank which results from an interstate merger transaction, a proportionate amount of the value of the shares of the out-of-State bank may be subject to any bank shares tax levied or imposed by the host State, or any political subdivision of such host State that imposes such tax based upon a method adopted by the host State, which may include allocation and apportionment.

``(2) APPLICABILITY OF ANTITRUST LAWS.--No provision of this section shall be construed as affecting--

``(A) the applicability of the antitrust laws; or

``(B) the applicability, if any, of any State law which is similar to the antitrust laws.

``(3) RESERVATION OF CERTAIN RIGHTS TO STATES.--No provision of this section shall be construed as limiting in any way the right of a State to--

``(A) determine the authority of State banks chartered by that State to establish and maintain branches; or

``(B) supervise, regulate, and examine State banks chartered by that State.

``(4) STATE-IMPOSED NOTICE REQUIREMENTS.--A host State may impose any notification or reporting requirement on a branch of an out-of-State bank if the requirement--

``(A) does not discriminate against out-of-State banks or bank holding companies; and

``(B) is not preempted by any Federal law regarding the same subject.

``(d) OPERATIONS OF THE RESULTING BANK.--

``(1) CONTINUED OPERATIONS.--A resulting bank may, subject to the approval of the appropriate Federal banking agency, retain and operate, as a main office or a branch, any office that any bank involved in an interstate merger transaction was operating as a main office or a branch immediately before the merger transaction.

``(2) ADDITIONAL BRANCHES.--Following the consummation of any interstate merger transaction, the resulting bank may establish, acquire, or operate additional branches at any location where any bank involved in the transaction could have established, acquired, or operated a branch under applicable Federal or State law if such bank had not been a party to the merger transaction.

``(3) CERTAIN CONDITIONS AND COMMITMENTS CONTINUED.--If, as a condition for the acquisition of a bank by an out-of-State bank holding company before the date of the enactment of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994--

``(A) the home State of the acquired bank imposed conditions on such acquisition by such out-of-State bank holding company; or

``(B) the bank holding company made commitments to such State in connection with the acquisition, the State may enforce such conditions and commitments with respect to such bank holding company or any affiliated successor company which controls a bank or branch in such State as a result of an interstate merger transaction to the same extent as the State could enforce such conditions or commitments against the bank holding company before the consummation of the merger transaction.

``(e) EXCEPTION FOR BANKS IN DEFAULT OR IN DANGER OF DEFAULT.--If an application under subsection (a)(1) for approval of a merger transaction which involves

1 or more banks in default or in danger of default or with respect to which the Corporation provides assistance under section 13(c), the responsible agency may approve such application without regard to subsection (b), or paragraph (2), (4), or (5) of subsection (a).

``(f) DEFINITIONS.--For purposes of this section, the following definitions shall apply:

``(1) ADEQUATELY CAPITALIZED.--The term `adequately capitalized' has the same meaning as in section 38.

``(2) ANTITRUST LAWS.--The term `antitrust laws'--

``(A) has the same meaning as in subsection (a) of the first section of the Clayton Act; and

``(B) includes section 5 of the Federal Trade Commission Act to the extent such section 5 relates to unfair methods of competition.

``(3) BRANCH.--The term `branch' means any domestic branch.

``(4) HOME STATE.--The term `home State'--

``(A) means--

``(i) with respect to a national bank, the State in which the main office of the bank is located; and

``(ii) with respect to a State bank, the State by which the bank is chartered; and

``(B) with respect to a bank holding company, has the same meaning as in section 2(o)(4) of the Bank Holding Company Act of 1956.

``(5) HOST STATE.--The term `host State' means, with respect to a bank, a State, other than the home State of the bank, in which the bank maintains, or seeks to establish and maintain, a branch.

``(6) INTERSTATE MERGER TRANSACTION.--The term `interstate merger transaction' means any merger transaction approved pursuant to subsection (a)(1).

``(7) MERGER TRANSACTION.--The term `merger transaction' has the meaning determined under section 18(c)(3).

``(8) OUT-OF-STATE BANK.--The term `out-of-State bank' means, with respect to any State, a bank whose home State is another State.

``(9) OUT-OF-STATE BANK HOLDING COMPANY.--The term `out-of-State bank holding company' means, with respect to any State, a bank holding company whose home State is another State.

``(10) RESPONSIBLE AGENCY.--The term `responsible agency' means the agency determined in accordance with section 18(c)(2) with respect to a merger transaction.

``(11) RESULTING BANK.--The term `resulting bank' means a bank that has

resulted from an interstate merger transaction under this section.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.--

(1) REVISED STATUTES.--Section 5155 of the Revised Statutes (12 U.S.C. 36) is amended--

(A) by redesignating subsections (d) through (h) as subsections (h) through (l), respectively; and

(B) by inserting after subsection (c) the following new subsections:

``(d) BRANCHES RESULTING FROM INTERSTATE MERGER TRANSACTIONS.--A national bank resulting from an interstate merger transaction (as defined in section 44(f)(6) of the Federal Deposit Insurance Act) may maintain and operate a branch in a State other than the home State (as defined in subsection (g)(3)(B)) of such bank in accordance with section 44 of the Federal Deposit Insurance Act.

``(e) EXCLUSIVE AUTHORITY FOR ADDITIONAL BRANCHES.--

``(1) IN GENERAL.--Effective June 1, 1997, a national bank may not acquire, establish, or operate a branch in any State other than the bank's home State (as defined in subsection (g)(3)(B)) or a State in which the bank already has a branch unless the acquisition, establishment, or operation of such branch in such State by such national bank is authorized under this section or section 13(f), 13(k), or 44 of the Federal Deposit Insurance Act.

``(2) RETENTION OF BRANCHES.--In the case of a national bank which relocates the main office of such bank from 1 State to another State after May 31, 1997, the bank may retain and operate branches within the State which was the bank's home State (as defined in subsection (g)(3)(B)) before the relocation of such office only to the extent the bank would be authorized, under this section or any other provision of law referred to in paragraph (1), to acquire, establish, or commence to operate a branch in such State if--

``(A) the bank had no branches in such State; or

``(B) the branch resulted from--

``(i) an interstate merger transaction approved pursuant to section 44 of the Federal Deposit Insurance Act; or

``(ii) a transaction after May 31, 1997, pursuant to which the bank received assistance from the Federal Deposit Insurance Corporation under section 13(c) of such Law Applicable to Interstate Branching Operations.--

``(1) LAW APPLICABLE TO NATIONAL BANK BRANCHES.--

``(A) IN GENERAL.--The laws of the host State regarding community reinvestment, consumer protection, fair lending, and establishment of intrastate branches shall apply to any branch in the host State of an out-of-State national ban k to the same extent as such State laws apply to a

branch of a bank chartered by that State, except--

``(i) when Federal law preempts the application of such State laws to a national bank; or

``(ii) when the Comptroller of the Currency determines that the application of such State laws would have a discriminatory effect on the branch in comparison with the effect the application of such State laws would have with respect to branches of a bank chartered by the host State.

``(B) ENFORCEMENT OF APPLICABLE STATE LAWS.--The provisions of any State law to which a branch of a national bank is subject under this paragraph shall be enforced, with respect to such branch, by the Comptroller of the Currency.

``(2) TREATMENT OF BRANCH AS BANK.--All laws of a host State, other than the laws regarding community reinvestment, consumer protection, fair lending, establishment of intrastate branches, and the application or administration of any tax or method of taxation, shall apply to a branch (in such State) of an out-of-State national bank to the same extent as such laws would apply if the branch were a national bank the main office of which is in such State.

``(3) RULE OF CONSTRUCTION.--No provision of this subsection may be construed as affecting the legal standards for preemption of the application of State law to national banks.".

(2) ACT OF MAY 1, 1886.--Section 2 of the Act entitled ``An Act to enable national banking associations to increase their capital stock and to change their names and locations.'' and approved May 1, 1886 (12 U.S.C. 30) is amended by adding at the end the following new subsection:

``(c) COORDINATION WITH REVISED STATUTES.--In the case of a national bank which relocates the main office of such bank from 1 State to another State after May 31, 1997, the bank may retain and operate branches within the State from which the bank relocated such office only to the extent authorized in section 5155(e)(2) of the Revised Statutes.".

(3) FEDERAL DEPOSIT INSURANCE ACT.--

(A) EXCLUSIVE AUTHORITY FOR ADDITIONAL BRANCHES OF STATE NONMEMBER BANKS.--Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)) is amended by adding at the end the following new paragraph:

``(3) EXCLUSIVE AUTHORITY FOR ADDITIONAL BRANCHES.--

``(A) IN GENERAL.--Effective June 1, 1997, a State nonmember bank may not acquire, establish, or operate a branch in any State other than the bank's home State (as defined in section 44(f)(4)) or a State in which the bank already has a branch unless the acquisition, establishment, or operation of a branch in such State by a State nonmember bank is authorized under this subsection or section

13(f), 13(k), or 44.

``(B) RETENTION OF BRANCHES.--In the case of a State nonmember bank which relocates the main office of such bank from 1 State to another State after May 31, 1997, the bank may retain and operate branches within the State which was the bank's home State (as defined in section 44(f)(4)) before the relocation of such office only to the extent the bank would be authorized, under this section or any other provision of law referred to in subparagraph (A), to acquire, establish, or commence to operate a branch in such State if--

``(i) the bank had no branches in such State; or

``(ii) the branch resulted from--

``(I) an interstate merger transaction approved pursuant to section 44; or

``(II) a transaction after May 31, 1997, pursuant to which the bank received assistance from the Corporation under section 13(c).".

(B) ACTIVITIES OF BRANCHES OF STATE BANKS RESULTING FROM INTERSTATE MERGER TRANSACTIONS.--Section 24 of the Federal Deposit Insurance Act (12 U.S.C. 1831a) is amended by adding at the end the following new subsection:

``(j) ACTIVITIES OF BRANCHES OF OUT-OF-STATE BANKS.--

``(1) IN GENERAL.--The laws of a host State, including laws regarding community reinvestment, consumer protection, fair lending, and establishment of intrastate branches, shall apply to any branch in the host State of an out-of-State State bank to the same extent as such State laws apply to a branch of a bank chartered by that State.

``(2) ACTIVITIES OF BRANCHES.--An insured State bank that establishes a branch in a host State may not conduct any activity at such branch that is not permissible for a bank chartered by the host State.

``(3) DEFINITIONS.--The terms `host State', `interstate merger transaction',and `out-of-State bank' have the same meanings as in section 44(f).".

(4) ACT OF NOVEMBER 7, 1918.--The Act entitled ``An Act to provide for the consolidation of the national banking associations." and approved November 7, 1918 (12 U.S.C. 215 et seq.) is amended--

(A) by redesignating section 2 as section 3;

(B) by redesignating section 3 as section 5;

(C) in the 1st section, by striking ``That (a) any national banking association" and inserting the following:

``SECTION 1. SHORT TITLE.

``This Act may be cited as the `National Bank Consolidation and Merger Act'.

``SEC. 2. CONSOLIDATION OF BANKS WITHIN THE SAME STATE.

``(a) IN GENERAL.--Any national bank''; and

(D) by inserting after section 3 (as so redesignated under subparagraph (A) of this paragraph) the following new section:

``SEC. 4. INTERSTATE CONSOLIDATIONS AND MERGERS.

``(a) IN GENERAL.--A national bank may engage in a consolidation or merger under this Act with an out-of-State bank if the consolidation or merger is approved pursuant to section 44 of the Federal Deposit Insurance Act.

``(b) SCOPE OF APPLICATION.--Subsection (a) shall not apply with respect to any consolidation or merger before June 1, 1997, unless the home State of each bank involved in the transaction has in effect a law described in section 44(a)(3) of the Federal Deposit Insurance Act.

``(c) DEFINITIONS.--The terms `home State' and `out-of-State bank' have the same meaning as in section 44(f) of the Federal Deposit Insurance Act.''.

(5) HOME OWNERS' LOAN ACT.--Section 3 of the Home Owners' Loan Act (12 U.S.C. 1462a) is amended--

(A) by redesignating subsections (f) through (i) as subsections (g) through (j), respectively; and

(B) by inserting after subsection (e), the following new subsection:

``(f) STATE HOMESTEAD PROVISIONS.--No provision of this Act or any other provision of law administered by the Director shall be construed as superseding any homestead provision of any State constitution, including any implementing State statute, in effect on the date of enactment of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, or any subsequent amendment to such a State constitutional or statutory provision in effect on such date, that exempts the homestead of any person from foreclosure, or forced sale, for the payment of all debts, other than a purchase money obligation relating to the homestead, taxes due on the homestead, or an obligation arising from work and material used in constructing improvements on the homestead.''.

SEC. 103. STATE ``OPT-IN'' ELECTION TO PERMIT INTERSTATE BRANCHING THROUGH DE NOVO BRANCHES.

(a) NATIONAL BANKS.--Section 5155 of the Revised Statutes (12 U.S.C. 36) is amended by inserting after subsection (f) (as added by section 102(b)) the following new subsection:

``(g) STATE `OPT-IN' ELECTION TO PERMIT INTERSTATE BRANCHING THROUGH DE NOVO BRANCHES.--

``(1) IN GENERAL.--Subject to paragraph (2), the Comptroller of the Currency may approve an application by a national bank to establish and operate

a de novo branch in a State (other than the bank's home State) in which the bank does not maintain a branch if--

``(A) there is in effect in the host State a law that--

``(i) applies equally to all banks; and

``(ii) expressly permits all out-of-State banks to establish de novo branches in such State; and

``(B) the conditions established in, or made applicable to this paragraph by, paragraph (2) are met.

``(2) CONDITIONS ON ESTABLISHMENT AND OPERATION OF INTERSTATE BRANCH.--

``(A) ESTABLISHMENT.--An application by a national bank to establish and operate a de novo branch in a host State shall be subject to the same requirements and conditions to which an application for an interstate merger transaction is subject under paragraphs (1), (3), and (4) of section 44(b) of the Federal Deposit Insurance Act.

``(B) OPERATION.--Subsections (c) and (d)(2) of section 44 of the Federal Deposit Insurance Act shall apply with respect to each branch of a national bank which is established and operated pursuant to an application approved under this subsection in the same manner and to the same extent such provisions of such section 44 apply to a branch of a national bank which resulted from an interstate merger transaction approved pursuant to such section 44.

``(3) DEFINITIONS.--The following definitions shall apply for purposes of this section:

``(A) DE NOVO BRANCH.--The term `de novo branch' means a branch of a national bank which--

``(i) is originally established by the national bank as a branch; and

``(ii) does not become a branch of such bank as a result of--

``(I) the acquisition by the bank of an insured depository institution or a branch of an insured depository institution; or

``(II) the conversion, merger, or consolidation of any such institution or branch.

``(B) HOME STATE.--The term `home State' means the State in which the main office of a national bank is located.

``(C) HOST STATE.--The term `host State' means, with respect to a bank, a State, other than the home State of the bank, in which the bank maintains, or seeks to establish and maintain, a branch.".

(b) STATE BANKS.--Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)) is amended by inserting after paragraph (3) (as added by section 102(b)(3) of this title) the following new paragraph:

``(4) STATE `OPT-IN' ELECTION TO PERMIT INTERSTATE BRANCHING THROUGH DE NOVO BRANCHES.--

``(A) IN GENERAL.--Subject to subparagraph (B), the Corporation may approve an application by an insured State nonmember bank to establish and operate a de novo branch in a State (other than the bank's home State) in which the bank does not maintain a branch if--

``(i) there is in effect in the host State a law that--

``(I) applies equally to all banks; and

``(II) expressly permits all out-of-State banks to establish de novo branches in such State; and

``(ii) the conditions established in, or made applicable to this paragraph by, subparagraph (B) are met.

``(B) CONDITIONS ON ESTABLISHMENT AND OPERATION OF INTERSTATE BRANCH.--

``(i) ESTABLISHMENT.--An application by an insured State nonmember bank to establish and operate a de novo branch in a host State shall be subject to the same requirements and conditions to which an application for a merger transaction is subject under paragraphs (1), (3), and (4) of section 44(b).

``(ii) OPERATION.--Subsections (c) and (d)(2) of section 44 shall apply with respect to each branch of an insured State nonmember bank which is established and operated pursuant to an application approved under this paragraph in the same manner and to the same extent such provisions of such section apply to a branch of a State bank which resulted from a merger transaction under such section 44.

``(C) DE NOVO BRANCH DEFINED.--For purposes of this paragraph, the term `de novo branch' means a branch of a State bank which--

``(i) is originally established by the State bank as a branch; and

``(ii) does not become a branch of such bank as a result of--

``(I) the acquisition by the bank of an insured depository institution or a branch of an insured depository institution; or

``(II) the conversion, merger, or consolidation of any such institution or branch.

``(D) HOME STATE DEFINED.--The term `home State' means the State by which a State bank is chartered.

``(E) HOST STATE DEFINED.--The term `host State' means, with respect to a bank, a State, other than the home State of the bank, in which the bank maintains, or seeks to establish and maintain, a branch.".

SEC. 104. BRANCHING BY FOREIGN BANKS.

(a) IN GENERAL.--Section 5(a) of the International Banking Act of 1978 (12 U.S.C. 3103(a)) is amended to read as follows:

``(a) INTERSTATE BRANCHING AND AGENCY OPERATIONS.--

``(1) FEDERAL BRANCH OR AGENCY.--Subject to the provisions of this Act and with the prior written approval by the Board and the Comptroller of the Currency of an application, a foreign bank may establish and operate a Federal branch or agency in any State outside the home State of such foreign bank to the extent that the establishment and operation of such branch would be permitted under section 5155(g) of the Revised Statutes or section 44 of the Federal Deposit Insurance Act if the foreign bank were a national bank whose home State is the same State as the home State of the foreign bank.

``(2) STATE BRANCH OR AGENCY.--Subject to the provisions of this Act and with the prior written approval by the Board and the appropriate State bank supervisor of an application, a foreign bank may establish and operate a State branch or agency in any State outside the home State of such foreign bank to the extent that such establishment and operation would be permitted under section 18(d)(4) or 44 of the Federal Deposit Insurance Act if the foreign bank were a State bank whose home State is the same State as the home State of the foreign bank.

``(3) CRITERIA FOR DETERMINATION.--In approving an application under paragraph (1) or (2), the Board and (in the case of an application under paragraph (1)) the Comptroller of the Currency--

``(A) shall apply the standards applicable to the establishment of a foreign bank office in the United States under section 7(d);

``(B) may not approve an application unless the Board and (in the case of an application under paragraph (1)) the Comptroller of the Currency--

``(i) determine that the foreign bank's financial resources, including the capital level of the bank, are equivalent to those required for a domestic bank to be approved for branching under section 5155 of the Revised Statutes and section 44 of the Federal Deposit Insurance Act; and

``(ii) consult with the Secretary of the Treasury regarding capital equivalency; and

``(C) shall apply the same requirements and conditions to which an application for an interstate merger transaction is subject under paragraphs (1), (3), and (4) of section 44(b) of the Federal Deposit Insurance Act.

``(4) OPERATION.--Subsections (c) and (d)(2) of section 44 of the Federal Deposit Insurance Act shall apply with respect to each branch and agency of a foreign bank which is established and operated pursuant to an application approved under this subsection in the same manner and to the same extent such provisions of such section apply to a domestic branch of a national or State bank (as such terms are defined in section 3 of such Act) which resulted from a merger transaction under such section 44.

``(5) EXCLUSIVE AUTHORITY FOR ADDITIONAL BRANCHES.--Except as provided in this section, a foreign bank may not, directly or indirectly, acquire, establish, or operate a branch or agency in any State other than the home State of such bank.

``(6) REQUIREMENT FOR A SEPARATE SUBSIDIARY.--If the Board or the Comptroller of the Currency, taking into account differing regulatory or accounting standards, finds that adherence by a foreign bank to capital requirements equivalent to those imposed under section 5155 of the Revised Statutes and section 44 of the Federal Deposit Insurance Act could be verified only if the banking activities of such bank in the United States are carried out in a domestic banking subsidiary within the United States, the Board and (in the case of an application under paragraph (1)) the Comptroller of the Currency may approve an application under paragraph (1) or (2) subject to a requirement that the foreign bank or company controlling the foreign bank establish a domestic banking subsidiary in the United States.

``(7) ADDITIONAL AUTHORITY FOR INTERSTATE BRANCHES AND AGENCIES OF FOREIGN BANKS.--Notwithstanding paragraphs (1) and (2), a foreign bank may, with the approval of the Board and the Comptroller of the Currency, establish and operate a Federal branch or Federal agency or, with the approval of the Board and the appropriate State bank supervisor, a State branch or State agency in any State outside the foreign bank's home State if--

``(A) the establishment and operation of a branch or agency is expressly permitted by the State in which the branch or agency is to be established; and

``(B) in the case of a Federal or State branch, the branch receives only such deposits as would be permissible for a corporation organized under section 25A of the Federal Reserve Act.

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``(9) HOME STATE OF DOMESTIC BANK DEFINED.--For purposes of this subsection, the term `home State' means--

``(A) with respect to a national bank, the State in which the main office of the bank is located; and

``(B) with respect to a State bank, the State by which the bank is chartered.".

(b) CONTINUED AUTHORITY FOR LIMITED BRANCHES, AGENCIES, OR COMMERCIAL LENDING COMPANIES.--Section 5(b) of the International Banking Act of 1978 (12 U.S.C. 3103(b)) is amended by adding at the end the following new sentence: ``Notwithstanding subsection (a), a foreign bank may continue to operate, after the enactment of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, any Federal branch, State branch, Federal agency, State agency, or commercial lending company subsidiary which such bank was operating on the day before the date of the enactment of such Act to the extent the branch, agency, or subsidiary continues, after the enactment of such Act, to engage in operations which were lawful under the laws in effect on the day before such date.".

(c) CLARIFICATION OF BRANCHING RULES IN THE CASE OF A FOREIGN BANK WITH A DOMESTIC BANK SUBSIDIARY.--Section 5 of the International Banking Act of 1978 (12 U.S.C. 3103) is amended by adding at the end the following new subsection:

``(d) CLARIFICATION OF BRANCHING RULES IN THE CASE OF A FOREIGN BANK WITH A DOMESTIC BANK SUBSIDIARY.--In the case of a foreign bank that has a domestic bank subsidiary within the United States--

``(1) the fact that such bank controls a domestic bank shall not affect the authority of the foreign bank to establish Federal and State branches or agencies to the extent permitted under subsection (a); and

``(2) the fact that the domestic bank is controlled by a foreign bank which has Federal or State branches or agencies in States other than the home State of such domestic bank shall not affect the authority of the domestic bank to establish branches outside the home State of the domestic bank to the extent permitted under section 5155(g) of the Revised Statutes or section 18(d)(4) or 44 of the Federal Deposit Insurance Act, as the case may be.".

(d) HOME STATE DETERMINATIONS.--Section 5(c) of the International Banking Act of 1978 (12 U.S.C. 3103(c)) is amended to read as follows:

``(c) DETERMINATION OF HOME STATE OF FOREIGN BANK.--FOR THE PURPOSES OF THIS SECTION--

``(1) in the case of a foreign bank that has any branch, agency, subsidiary commercial lending company, or subsidiary bank in more than 1 State, the home State of the foreign bank is the 1 State of such States which is selected to be the

home State by the foreign bank or, in default of any such selection, by the Board; and

``(2) in the case of a foreign bank that does not have a branch, agency, subsidiary commercial lending company, or subsidiary bank in more than 1 State, the home State of the foreign bank is the State in which the foreign bank has a branch, agency, subsidiary commercial lending company, or subsidiary bank.''.

SEC. 105. COORDINATION OF EXAMINATION AUTHORITY.

Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by inserting after subsection (g) the following new subsection:

``(h) COORDINATION OF EXAMINATION AUTHORITY.--

``(1) IN GENERAL.--The appropriate State bank supervisor of a host State may examine a branch operated in such State by an out-of-State insured State bank that resulted from an interstate merger transaction approved under section 44 or a branch established in such State pursuant to section 5155(g) of the Revised Statutes or section 18(d)(4)--

``(A) for the purpose of determining compliance with host State laws, including those that govern banking, community reinvestment, fair lending, consumer protection, and permissible activities; and

``(B) to ensure that the activities of the branch are not conducted in an unsafe or unsound manner.

``(2) ENFORCEMENT.--If the State bank supervisor of a host State determines that there is a violation of the law of the host State concerning the activities being conducted by a branch described in paragraph (1) or that the branch is being operated in an unsafe and unsound manner, the State bank supervisor of the host State or, to the extent authorized by the law of the host State, a State law enforcement officer may undertake such enforcement actions and proceedings as would be permitted under the law of the host State as if the branch were a bank chartered by that host State.

``(3) COOPERATIVE AGREEMENT.--The State bank supervisors from 2 or more States may enter into cooperative agreements to facilitate State regulatory supervision of State banks, including cooperative agreements relating to the coordination of examinations and joint participation in examinations.

``(4) FEDERAL REGULATORY AUTHORITY.--No provision of this subsection shall be construed as limiting in any way the authority of an appropriate Federal banking agency to examine or to take any enforcement actions or proceedings against any bank or branch of a bank for which the agency is the appropriate Federal banking agency.''.

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SEC. 106. BRANCH CLOSURES.

Section 42 of the Federal Deposit Insurance Act (12 U.S.C. 1831r-1) is amended by adding at the end the following new subsection:

``(d) BRANCH CLOSURES IN INTERSTATE BANKING OR BRANCHING OPERATIONS.--

`(1) NOTICE REQUIREMENTS.--In the case of an interstate bank which proposes to close any branch in a low- or moderate-income area, the notice required under subsection (b)(2) shall contain the mailing address of the appropriate Federal banking agency and a statement that comments on the proposed closing of such branch may be mailed to such agency.

``(2) ACTION REQUIRED BY APPROPRIATE FEDERAL BANKING AGENCY.--If, in the case of a branch referred to in paragraph (1)--

``(A) a person from the area in which such branch is located--

``(i) submits a written request relating to the closing of such branch to the appropriate Federal banking agency; and

``(ii) includes a statement of specific reasons for the request, including a discussion of the adverse effect of such closing on the availability of banking services in the area affected by the closing of the branch; and

``(B) the agency concludes that the request is not frivolous, the agency shall consult with community leaders in the affected area and convene a meeting of representatives of the agency and other interested depository institution regulatory agencies with community leaders in the affected area and such other individuals, organizations, and depository institutions (as defined in section 19(b)(1)(A) of the Federal Reserve Act) as the agency may determine, in the discretion of the agency, to be appropriate, to explore the feasibility of obtaining adequate alternative facilities and services for the affected area, including the establishment of a new branch by another depository institution, the chartering of a new depository institution, or the establishment of a community development credit union, following the closing of the branch.

``(3) NO EFFECT ON CLOSING.--No action by the appropriate Federal banking agency under paragraph (2) shall affect the authority of an interstate bank to close a branch (including the timing of such closing) if the requirements of subsections (a) and (b) have been met by such bank with respect to the branch being closed.

``(4) DEFINITIONS.--For purposes of this subsection, the following definitions shall apply:

``(A) INTERSTATE BANK DEFINED.--The term `interstate bank' means a bank which maintains branches in more than 1 State.

``(B) LOW- OR MODERATE-INCOME AREA.--The term `low- or moderate-income area' means a census tract for which the median family income is--

``(i) less than 80 percent of the median family income for the metropolitan statistical area (as designated by the Director of the Office of Management and Budget) in which the census tract is located; or

``(ii) in the case of a census tract which is not located in a metropolitan statistical area, less than 80 percent of the median family income for the State in which the census tract is located, as determined without taking into account family income in metropolitan statistical areas in such State.".

SEC. 107. EQUALIZING COMPETITIVE OPPORTUNITIES FOR UNITED STATES AND FOREIGN BANKS.

(a) REGULATORY OBJECTIVES.--Section 6 of the International Banking Act of 1978 (12 U.S.C. 3104) is amended--

(1) by redesignating subsections (a) through (c) as subsections (b) through (d), respectively; and

(2) by inserting after ``sec. 6'' the following new subsection:

``(a) OBJECTIVE.--In implementing this section, the Comptroller and the Federal Deposit Insurance Corporation shall each, by affording equal competitive opportunities to foreign and United States banking organizations in their United States operations, ensure that foreign banking organizations do not receive an unfair competitive advantage over United States banking organizations.".

(b) REVIEW OF REGULATIONS.--

(1) IN GENERAL.--Each Federal banking agency, after consultation with the other Federal banking agencies to assure uniformity, shall revise the regulations adopted by such agency under section 6 of the International Banking Act of 1978 to ensure that the regulations are consistent with the objective set forth in section 6(a) of the International Banking Act of 1978.

(2) SPECIFIC FACTORS.--In carrying out paragraph (1), each Federal banking agency shall consider whether to permit an uninsured branch of a foreign bank to accept initial deposits of less than $100,000 only from--

(A) individuals who are not citizens or residents of the United States at the time of the initial deposit;

(B) individuals who--

(i) are not citizens of the United States;

(ii) are residents of the United States; and

(iii) are employed by a foreign bank, foreign business, foreign government, or recognized international organization;

(C) persons to whom the branch or foreign bank has extended credit or provided other nondeposit banking services;

(D) foreign businesses and large United States businesses;

(E) foreign governmental units and recognized international organizations; and

(F) persons who are depositing funds in connection with the issuance of a financial instrument by the branch for the transmission of funds.

(3)REDUCTION IN REGULATORY DE MINIMIS EXEMPTION.--In carrying out paragraph (1), each Federal banking agency shall limit any exemption which is--

(A) available under any regulation prescribed pursuant to section 6(d) of the International Banking Act of 1978 providing for the acceptance of initial deposits of less than $100,000 by an uninsured branch of a foreign bank; and

(B) based on a percentage of the average deposits at such branch; to not more than 1 percent of the average deposits at such branch.

(4) ADDITIONAL RELEVANT CONSIDERATIONS.--In carrying out paragraph (1), each Federal banking agency shall also consider the importance of maintaining and improving the availability of credit to all sectors of the United States economy, including the international trade finance sector of the United State economy.

(5) DEADLINE FOR PRESCRIBING REVISED REGULATIONS.--Each Federal banking agency--

(A) shall publish final regulations under paragraph (1) in the Federal Register not later than 12 months after the date of enactment of this Act; and

(B) may establish reasonable transition rules to facilitate any termination of any deposit-taking activities that were permissible under regulations that were in effect before the date of enactment of this Act.

(6) DEFINITIONS.--For purposes of this subsection--

(A) the term ``Federal banking agency'' means--

(i) the Comptroller of the Currency with respect to Federal branches of foreign banks; and

(ii) the Federal Deposit Insurance Corporation with respect to State branches of foreign banks; and

(B) the term ``uninsured branch'' means a branch of a foreign bank that is not an insured branch, as defined in section 3(s)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)(3)).

(c) AMENDMENT AFFIRMING THAT CONSUMER PROTECTION LAWS APPLY TO FOREIGN BANKS.--Section 9(b) of the International Banking Act of 1978 (12 U.S.C. 3106a) is amended--

(1) in paragraph (1)--

(A) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(B) by inserting after ``which--'' the following new subparagraph:

``(A) impose requirements that protect the rights of consumers in financial transactions, to the extent that the branch, agency, or commercial lending company engages in activities that are subject to such laws;''; and

(2) in paragraph (2)--

(A) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(B) by inserting after ``which--'' the following new subparagraph:

``(A) impose requirements that protect the rights of consumers in financial transactions, to the extent that the branch, agency, or commercial lending company engages in activities that are subject to such laws;''.

(d) INSURED BANKS IN TERRITORIES NOT TREATED AS FOREIGN BANKS FOR PURPOSES OF RETAIL DEPOSIT-TAKING RULE.--Section 6(d) of the International Banking Act of 1978 (12 U.S.C. 3104(c)) (as so redesignated by subsection (a)(1) of this section) is amended by adding at the end the following new paragraph:

``(3) INSURED BANKS IN U.S. TERRITORIES.--For purposes of this subsection, the term `foreign bank' does not include any bank organized under the laws of any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands the deposits of which are insured by the Federal Deposit Insurance Corporation pursuant to the Federal Deposit Insurance Act.''.

(e) Amendment Relating to Shell Branches.--

(1) IN GENERAL.--Section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) is amended by adding at the end the following new subsection:

``(k) MANAGEMENT OF SHELL BRANCHES.--

``(1) TRANSACTIONS PROHIBITED.--A branch or agency of a foreign bank shall not manage, through an office of the foreign bank which is located outside the United States and is managed or controlled by such branch or agency, any type of activity that a bank organized under the laws of the United States, any State, or the District of Columbia is not permitted to manage at any branch or subsidiary of such bank which is located outside the United States.

``(2) REGULATIONS.--Any regulations promulgated to carry out this section--

``(A) shall be promulgated in accordance with section 13; and

``(B) shall be uniform, to the extent practicable.''.

(2) EFFECTIVE DATE.--The amendment made by paragraph (1) shall become effective at the end of the 180-day period beginning on the date of enactment of this Act.

(f) MEETING COMMUNITY CREDIT NEEDS.--Section 5(a) of the International Banking Act of 1978 (12 U.S.C. 3103(a)) (as amended by section 104 of this Act) is amended by inserting after paragraph (7) the following new paragraph:

``(8) CONTINUING REQUIREMENT FOR MEETING COMMUNITY CREDIT NEEDS AFTER INITIAL INTERSTATE ENTRY BY ACQUISITION.--

``(A) IN GENERAL.--If a foreign bank acquires a bank or a branch of a bank, in a State in which the foreign bank does not maintain a branch, and such acquired bank is, or is part of, a regulated financial institution (as defined in section 803 of the Community Reinvestment Act of 1977), the Community Reinvestment Act of 1977 shall continue to apply to each branch of the foreign bank which results from the acquisition as if such branch were a regulated financial institution.

``(B) EXCEPTION FOR BRANCH THAT RECEIVES ONLY DEPOSITS PERMISSIBLE FOR AN EDGE ACT CORPORATION.--Paragraph (1) shall not apply to any branch that receives only such deposits as are permissible for a corporation organized under section 25A of the Federal Reserve Act to receive.''.

SEC. 108. FEDERAL RESERVE BOARD STUDY ON BANK FEES.

(a) IN GENERAL.--Section 1002 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 note) is amended to read as follows:

``SEC. 1002. SURVEY OF BANK FEES AND SERVICES.

``(a) ANNUAL SURVEY REQUIRED.--The Board of Governors of the Federal Reserve System shall obtain a sample, which is representative by geographic location and size of the institution, of--

``(1) certain retail banking services provided by insured depository institutions; and

``(2) the fees, if any, which are imposed by such institutions for providing any such service, including fees imposed for not sufficient funds, deposit items returned, and automated teller machine transactions.

``(b) ANNUAL REPORT TO CONGRESS REQUIRED.--

``(1) PREPARATION.--The Board of Governors of the Federal Reserve System shall prepare a report of the results of each survey conducted pursuant to subsection (a).

``(2) CONTENTS OF THE REPORT.--Each report prepared pursuant to

paragraph (1) shall include--

``(A) a description of any discernible trend, in the Nation as a whole and in each region, in the cost and availability of retail banking services which delineates differences on the basis of size of the institution and engagement in multistate activity; and

``(B) a description of the correlation, if any, among the following factors:

``(i) An increase or decrease in the amount of any deposit insurance premium assessed by the Federal Deposit Insurance Corporation against insured depository institutions.

``(ii) An increase or decrease in the amount of the fees imposed by such institutions for providing retail banking services.

``(iii) A decrease in the availability of such services.

``(3) SUBMISSION TO CONGRESS.--The Board of Governors of the Federal Reserve System shall submit an annual report to the Congress not later than September 1, 1995, and not later than June 1 of each subsequent year.".

(b) SUNSET.--The requirements of subsection (a) shall not apply after the end of the 7-year period beginning on the date of enactment of this Act.

SEC. 109. PROHIBITION AGAINST DEPOSIT PRODUCTION OFFICES.

(a) REGULATIONS.--The appropriate Federal banking agencies shall prescribe uniform regulations effective June 1, 1997, which prohibit any out-of-State bank from using any authority to engage in interstate branching pursuant to this title, or any amendment made by this title to any other provision of law, primarily for the purpose of deposit production.

(b) GUIDELINES FOR MEETING CREDIT NEEDS.--Regulations issued under subsection (a) shall include guidelines to ensure that interstate branches operated by an out-of-State bank in a host State are reasonably helping to meet the credit needs of the communities which the branches serve.

(c) LIMITATION ON OUT-OF-STATE LOANS.--

(1) LIMITATION.--Regulations issued under subsection (a) shall require that, beginning no earlier than 1 year after establishment or acquisition of an interstate branch or branches in a host State by an out-of-State bank, if the appropriate Federal banking agency for the out-of-State bank determines that the bank's level of lending in the host State relative to the deposits from the host State (as reasonably determinable from available information including the agency's sampling of the bank's loan files during an examination or such data as is otherwise available) is less than half the average of total loans in the host State relative to total deposits from the host State (as determinable from relevant

sources) for all banks the home State of which is such State--

(A) the appropriate Federal banking agency for the out-of-State bank shall review the loan portfolio of the bank and determine whether the bank is reasonably helping to meet the credit needs of the communities served by the bank in the host State; and

(B) if the agency determines that the out-of-State bank is not reasonably helping to meet those needs--

(i) the agency may order that an interstate branch or branches of such bank in the host State be closed unless the bank provides reasonable assurances to the satisfaction of the appropriate Federal banking agency that the bank has an acceptable plan that will reasonably help to meet the credit needs of the communities served by the bank in the host State, and

(ii) the out-of-State bank may not open a new interstate branch in the host State unless the bank provides reasonable assurances to the satisfaction of the appropriate Federal banking agency that the bank will reasonably help to meet the credit needs of the community that the new branch will serve.

(2) CONSIDERATIONS.--In making a determination under paragraph (1)(A), the appropriate Federal banking agency shall consider--

(A) whether the interstate branch or branches of the out-of-State bank were formerly part of a failed or failing depository institution;

(B) whether the interstate branch was acquired under circumstances where there was a low loan-to-deposit ratio because of the nature of the acquired institution's business or loan portfolio;

(C) whether the interstate branch or branches of the out-of-State bank have a higher concentration of commercial or credit card lending, trust services, or other specialized activities;

(D) the ratings received by the out-of-State bank under the Community Reinvestment Act of 1977;

(E) economic conditions, including the level of loan demand, within the communities served by the interstate branch or branches of the out-of-State bank; and

(F) the safe and sound operation and condition of the out-of-State bank.

(3) BRANCH CLOSING PROCEDURE.--

(A) NOTICE REQUIRED.--Before exercising any authority under paragraph (1)(B)(i), the appropriate Federal banking agency shall issue to the bank a notice of the agency's intention to close an interstate branch or

branches and shall schedule a hearing.

(B) HEARING.--Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding brought under this paragraph.

(d) APPLICATION.--This section shall apply with respect to any interstate branch established or acquired in a host State pursuant to this title or any amendment made by this title to any other provision of law.

(e) DEFINITIONS.--For the purposes of this section, the following definitions shall apply:

(1) APPROPRIATE FEDERAL BANKING AGENCY, BANK, STATE, AND STATE BANK.--The terms ``appropriate Federal banking agency'', ``bank'', ``State'', and ``State bank'' have the same meanings as in section 3 of the Federal Deposit Insurance Act.

(2) HOME STATE.--The term ``home State'' means--

(A) in the case of a national bank, the State in which the main office of the bank is located; and

(B) in the case of a State bank, the State by which the bank is chartered.

(3) HOST STATE.--The term ``host State'' means a State in which a bank establishes a branch other than the home State of the bank.

(4) INTERSTATE BRANCH.--The term ``interstate branch'' means a branch established pursuant to this title or any amendment made by this title to any other provision of law.

(5) OUT-OF-STATE BANK.--The term ``out-of-State bank'' means, with respect to any State, a bank the home State of which is another State and, for purposes of this section, includes a foreign bank, the home State of which is another State.

SEC. 110. COMMUNITY REINVESTMENT ACT EVALUATION OF BANKS WITH INTERSTATE BRANCHES.

(a) IN GENERAL.--Section 807 of the Community Reinvestment Act of 1977 (12 U.S.C. 2906) is amended by adding at the end the following new subsections:

``(d) INSTITUTIONS WITH INTERSTATE BRANCHES.--

``(1) STATE-BY-STATE EVALUATION.--In the case of a regulated financial institution that maintains domestic branches in 2 or more States, the appropriate Federal financial supervisory agency shall prepare--

``(A) a written evaluation of the entire institution's record of performance under this title, as required by subsections (a), (b), and (c); and

``(B) for each State in which the institution maintains 1 or more domestic branches, a separate written evaluation of the institution's record

of performance within such State under this title, as required by subsections (a), (b), and (c).

``(2) MULTISTATE METROPOLITAN AREAS.--In the case of a regulated financial institution that maintains domestic branches in 2 or more States within a multistate metropolitan area, the appropriate Federal financial supervisory agency shall prepare a separate written evaluation of the institution's record of performance within such metropolitan area under this title, as required by subsections (a), (b), and (c). If the agency prepares a written evaluation pursuant to this paragraph, the scope of the written evaluation required under paragraph (1)(B) shall be adjusted accordingly.

``(3) CONTENT OF STATE LEVEL EVALUATION.--A written evaluation prepared pursuant to paragraph (1)(B) shall--

``(A) present the information required by subparagraphs (A) and (B) of subsection (b)(1) separately for each metropolitan area in which the institution maintains 1 or more domestic branch offices and separately for the remainder of the nonmetropolitan area of the State if the institution maintains 1 or more domestic branch offices in such nonmetropolitan area; and

``(B) describe how the Federal financial supervisory agency has performed the examination of the institution, including a list of the individual branches examined.

``(e) DEFINITIONS.--For purposes of this section the following definitions shall apply:

``(1) DOMESTIC BRANCH.--The term `domestic branch' means any branch office or other facility of a regulated financial institution that accepts deposits, located in any State

.``(2) METROPOLITAN AREA.--The term `metropolitan area' means any primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area, as defined by the Director of the Office of Management and Budget, with a population of 250,000 or more, and any other area designated as such by the appropriate Federal financial supervisory agency.

``(3) STATE.--The term `State' has the same meaning as in section 3 of the Federal Deposit Insurance Act.".

(b) SEPARATE PRESENTATION.--Section 807(b)(1) of the Community Reinvestment Act of 1977 (12 U.S.C. 2906(b)(1)) is amended--

(1) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively;

(2) by striking ``The public" and inserting the following:

``(A) Contents of written evaluation.--The public"; and

(3) by adding at the end the following new subparagraph:

``(B) Metropolitan area distinctions.--The information required by clauses (i) and (ii) of subparagraph (A) shall be presented separately for each metropolitan area in which a regulated depository institution maintains one or more domestic branch offices.''.

SEC. 111. RESTATEMENT OF EXISTING LAW.

No provision of this title and no amendment made by this title to any other provision of law shall be construed as affecting in any way--

(1) the authority of any State or political subdivision of any State to adopt, apply, or administer any tax or method of taxation to any bank, bank holding company, or foreign bank, or any affiliate of any such bank, bank holding company, or foreign bank, to the extent that such tax or tax method is otherwise permissible by or under the Constitution of the United States or other Federal law;

(2) the right of any State, or any political subdivision of any State, to impose or maintain a nondiscriminatory franchise tax or other nonproperty tax instead of a franchise tax in accordance with section 3124 of title 31, United States Code; or

(3) the applicability of section 5197 of the Revised Statutes or section 27 of the Federal Deposit Insurance Act.

SEC. 112. GAO REPORT ON DATA COLLECTION UNDER INTERSTATE BRANCHING.

(a) IN GENERAL.--The Comptroller General of the United States shall submit to the Congress, not later than 9 months after the date of enactment of this Act, a report that--

(1) examines statutory and regulatory requirements for insured depository institutions to collect and report deposit and lending data; and

(2) determines what modifications to such requirements are needed, so that the implementation of the interstate branching provisions contained in this title will result in no material loss of information important to regulatory or congressional oversight of insured depository institutions.

(b) CONSULTATION.--The Comptroller General, in preparing the report required by this section, shall consult with individuals representing the appropriate Federal banking agencies, insured depository institutions, consumers, community groups, and other interested parties.

(c) DEFINITIONS.--For purposes of this section, the terms ``appropriate Federal banking agency'' and ``insured depository institution'' have the same meanings as in section 3 of the Federal Deposit Insurance Act.

SEC. 113. MAXIMUM INTEREST RATE ON CERTAIN FMHA LOANS.

(a) IN GENERAL.--Section 307(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)) is amended--

(1) in paragraph (3)(A), by striking ``Except'' and inserting ``Notwithstanding the provisions of the constitution or laws of any State limiting the rate or amount of interest that may be charged, taken, received, or reserved, except''; and

(2) in paragraph (5)--

(A) by striking ``(5) The'' and inserting ``(5)(A) Except as provided in subparagraph (B), the''; and

(B) by adding at the end the following new subparagraph:

``(B) In the case of a loan made under section 310B as a guaranteed loan, subparagraph (A) shall apply notwithstanding the provisions of the constitution or laws of any State limiting the rate or amount of interest that may be charged, taken, received, or reserved.''.

(b) EFFECTIVE DATES.--

(1) IN GENERAL.--Except as provided in paragraphs (2) and (3), the amendments made by subsection (a) shall apply to a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in a State on or after the date of enactment of this Act.

(2) STATE OPTION.--Except as provided in paragraph (3), the amendments made by subsection (a) shall not apply to a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act in a State after the date (that occurs during the 3-year period beginning on the date of enactment of this Act) on which the State adopts a law or certifies that the voters of the State have voted in favor of a provision of the constitution or law of the State that states that the State does not want the amendments made by subsection (a) to apply with respect to loans made, insured, or guaranteed under such Act in the State.

(3) TRANSITIONAL PERIOD.--In any case in which a State takes an action described in paragraph (2), the amendments made by subsection (a) shall continue to apply to a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act in the State after the date the action was taken pursuant to a commitment for the loan that was entered into during the period beginning on the date of enactment of this Act, and ending on the date on which the State takes the action.

SEC. 114. NOTICE REQUIREMENTS FOR BANKING AGENCY DECISIONS PREEMPTING STATE LAW.

Chapter 4 of title LXII of the Revised Statutes (12 U.S.C. 21 et seq.) is amended by

adding at the end the following new section:

``SEC. 5244. INTERPRETATIONS CONCERNING PREEMPTION OF CERTAIN STATE LAWS.

``(a) NOTICE AND OPPORTUNITY FOR COMMENT REQUIRED.--Before issuing any opinion letter or interpretive rule, in response to a request or upon the agency's own motion, that concludes that Federal law preempts the application to a national bank of any State law regarding community reinvestment, consumer protection, fair lending, or the establishment of intrastate branches, or before making a determination under section 5155(f)(1)(A)(ii) of the Revised Statutes, the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) shall--

``(1) publish in the Federal Register notice of the preemption or discrimination issue that the agency is considering (including a description of each State law at issue);

``(2) give interested parties not less than 30 days in which to submit written comments; and

``(3) in developing the final opinion letter or interpretive rule issued by the agency, or making any determination under section 5155(f)(1)(A)(ii) of the Revised Statutes, consider any comments received.

``(b) PUBLICATION REQUIRED.--The appropriate Federal banking agency shall publish in the Federal Register--

``(1) any final opinion letter or interpretive rule concluding that Federal law preempts the application of any State law regarding community reinvestment, consumer protection, fair lending, or establishment of intrastate branches to a national bank; and

``(2) any determination under section 5155(f)(1)(A)(ii) of the Revised Statutes.

``(c) EXCEPTIONS.--

``(1) NO NEW ISSUE OR SIGNIFICANT BASIS.--This section shall not apply with respect to any opinion letter or interpretive ruling that --

``(A) raises issues of Federal preemption of State law that are essentially identical to those previously resolved by the courts or on which the agency has previously issued an opinion letter or interpretive rule; or

``(B) responds to a request that contains no significant legal basis on which to make a preemption determination.

``(2) JUDICIAL, LEGISLATIVE, OR INTRAGOVERNMENTAL MATERIALS.--This section shall not apply with respect to materials prepared for use in judicial proceedings or submission to Congress or a Member of Congress, or for intragovernmental use.

``(3) EMERGENCY.--The appropriate Federal banking agency may make exceptions to subsection (a) if--

``(A) the agency determines in writing that the exception is necessary to avoid a serious and imminent threat to the safety and soundness of any national bank; or

``(B) the opinion letter or interpretive rule is issued in connection with--

``(i) an acquisition of 1 or more banks in default or in danger of default (as such terms are defined in section 3 of the Federal Deposit Insurance Act); or

``(ii) an acquisition with respect to which the Federal Deposit Insurance Corporation provides assistance under section 13(c) of the Federal Deposit Insurance Act.".

SEC. 115. MORATORIUM ON EXAMINATION FEES UNDER THE INTERNATIONAL BANKING ACT OF 1978.

(a) BRANCHES, AGENCIES, AND AFFILIATES.--Section 7(c)(1)(D) of the International Banking Act of 1978 shall not apply with respect to any examination under section 7(c)(1)(A) of such Act which begins before or during the 3-year period beginning on July 25, 1994.

(b) REPRESENTATIVE OFFICES.--The provision of section 10(c) of the International Banking Act of 1978 relating to the cost of examinations under such section shall not apply with respect to any examination under such section which begins before or during the 3-year period beginning on July 25, 1994.

APPENDIX F

CONCURRING OPINION BY L. GARY KNIGHT

CONCURRING RECOMMENDATION BY L. GARY KNIGHT

Commissioner Longley, Chairwoman
Members of the Governor's Task Force on Interstate Banking and Branching

I compliment the work of the Task Force, the Chair and the facilitator in addressing the many issues facing Maine concerning implementation of interstate banking/branching in this state. The Task Force makes *twenty* separate recommendations as a result of the meetings. While I agree with virtually all of the recommendations proposed by this Task Force, I must respectfully offer an alternative recommendation regarding Recommendation #5, the issue of De Novo branching entry into the State of Maine (see pages 6, 7 of the Task Force's Report).

The members of the Maine Bankers Association and the members of the Maine Association of Community Banks unanimously voted to support an Early Opt-in for Maine contingent upon entry being limited to acquisition of an existing full banking franchise. Several banking members of the Task Force supported this position, and offered, in my opinion, compelling reasons:

* more than 2/3 of the states which have passed early opt-in legislation required that opt-in by full franchise acquisition, so that the majority of states have chosen this position, not reciprocal de novo entry as recommended by the Maine Task Force.

* Maine's one border state, New Hampshire, has passed law requiring entry by acquisition of full franchise only.

* Several states that have passed reciprocal de novo entry have expressed concern that the reciprocity requirement may not survive beyond May 31, 1997. If the reciprocity requirement fails to survive that date, then Maine allows unlimited de novo branching for any out-of-state financial institution. **Unlimited de novo entry has been rejected by eighteen of the twenty-one states that voted on Interstate Banking Legislation as of October 27, 1995.** (New York, Connecticut and Maryland have passed unlimited de novo entry. Rhode Island, North Carolina, Virginia, and Pennsylvania have reciprocal statutes. Since October, Massachusetts has passed a reciprocal statute.)

With all due respect to the members of the Task Force, I heard no compelling argument convincing me that Maine should follow such an extreme path. The Discussion in the Report cites the positive impact from additional competition, the precedent from Bank of America FSB's application and the "30-mile rule" as support for the Task Force's position.

Again, with all due respect, these reasons are not compelling to take a position that 2/3 of the states have rejected as detrimental to their existing bank franchises.

The "30-mile rule" will only impact one state, New Hampshire, meaning the number of de novo branches from that state would be very small.

The Bank of America FSB's application has been opposed by many state banking regulators, including Maine's Superintendent of the Bureau of Banking, so that the expansion has not been approved as of this time. Also, there is legislation pending in Congress that would eliminate the Federal Savings Bank charter, which obviously would eliminate de novo branching from those franchises.

Finally, while opening Maine's border to de novo branching seems to promote competition, many on the Task Force including at least one non-banker agreed that "the banking industry in Maine is over-branched" and that "Maine's deposit growth has been relatively stagnant over the past dozen or so years."

If Maine has too many bank branches already - Maine has more than 400 bank branches, and more than 100 credit union branches - then allowing additional de novo branches will only take deposits from existing Maine banks. Combined with the above-mentioned stagnant deposit growth, the only result will be weakened financial strength of existing Maine banks, lowering their franchise value and lowering these Maine banks ability to raise capital. The result - Maine banks will have less ability to compete. This is exactly the reason that the large majority of states supported branch entry by acquisition only.

Maine banks, especially Maine's community banks, have been formed by local investors over the past two centuries. Maine's community banks clearly play important economic development roles in their communities, as well as supporting local civic events and organizations.

In short, these banks, their investors, their employees and their customers have supported local Maine communities for many years. The Governor's Task Force's recommendation may lessen community banks' ability to fulfill this role. With relatively little concrete evidence that their will be offsetting benefits to Maine from de novo branching, I cannot in good conscience support this recommendation. In my opinion, the Task Force welcomes competitors at the expense of existing Maine business, Maine community banks, their investors and their employees. Too little thought has been given to the negative impact to these existing Maine businesses.

December 14, 1995

L. Gary Knight

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